



**INDEPENDENT REGULATORY REVIEW COMMISSION
COMMONWEALTH OF PENNSYLVANIA
333 MARKET STREET
14TH FLOOR
HARRISBURG, PA 17101**

**(717) 783-5417
Fax (717) 783-2664**

January 21, 2004

James J. Irrgang, Chairman
State Board of Physical Therapy
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-6510 (IRRC #2369)
State Board of Physical Therapy
Certificate of Authorization

Dear Chairman Irrgang:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulation review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce
Executive Director

evp

Enclosure

cc: Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Physical Therapy Regulation No. 16A-6510

Certificate of Authorization

January 21, 2004

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Physical Therapy (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on December 22, 2003. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 40.2. Practice of medicine prohibited. – Consistency with statute.

This existing section states, “[T]he license issued to those practicing physical therapy does not authorize . . . the right to apply any of these treatments except upon the referral of a physician” Act 6 of 2002 amended 63 P.S. § 1309(a) to state, “Except as provided in subsection (b), no person licensed under this act as a physical therapist shall treat human ailments by physical therapy or otherwise except by referral” Subsection (b) of this statutory section provides the conditions for practice without referral. In addition to the amendments proposed, Section 40.2 of the regulations should be amended to be consistent with 63 P.S. § 1309.

2. Section 40.61. Certificate of authorization to practice physical therapy without a referral. – Consistency with statute; Reasonableness; Clarity.

There are three concerns with this section.

First, a physical therapist is required to refer patients to a licensed physician or other appropriate health care practitioner in “cases for which treatment is beyond the education, expertise or experience of the physical therapist.” (63 P.S. § 1309(d)(3)). This provision is not reflected in the regulation. For example, Subsections (a)(3)(i) and (ii) do not relate the type of patient care delivered in the past to the type of physical therapy that can be practiced without a referral. The statutory limitations of 63 P.S. § 1309(d)(3) should be added to the regulation.

Second, Subsection (a)(5) defines continuous practice “as a minimum of 200 hours each year in the delivery of direct patient care.” The Preamble explains that the Board determined that 200 hours per year represents approximately 10% of annual practice. How was this determined to be continuous practice? Why is a minimum of 200 hours per year the appropriate amount of experience to allow a physical therapist to practice without referral?

Finally, Subsection (a) includes a list of requirements that a physical therapist must meet to be eligible to obtain a certificate of authorization. This list includes Paragraph (5) which is a definition of “continuous practice.” Since this is a definition, it should not be listed as a requirement. For clarity, the Board should move this definition to Paragraph (3) where the term is applicable.

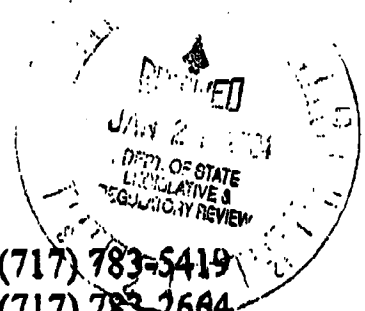


Facsimile Cover Sheet

Kristine M. Shomper
Administrative Officer



Phone: (717) 783-5419
Fax #: (717) 783-2664
E-mail: kriss@irrc.state.pa.us
Website: www.irrc.state.pa.us



INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

To: Suzanne Hoy
Agency: Department of State
Licensing Boards and Commissions
Phone: 7-2628
Fax: 7-0251
Date: 1/21/04
Pages: 4

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INDEPENDENT REGULATORY REVIEW COMMISSION

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Physical Therapy regulation #16A-6510 (IRRC #2369). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through Interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Suzanne Hoy* **Date:** 1/21/04