

JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
DANIEL F. CLARK, ESQ.
ARTHUR COCCODRILLI
MURRAY UFBERG, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417
FAX: (717) 783-2664
irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>

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

August 18, 2004

Sonya M. Wilt, Chairperson
State Board of Examiners in Speech-Language and Hearing
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-6802 (IRRC #2406)
State Board of Examiners in Speech-Language and Hearing
Continuing Education

Dear Chairperson Wilt:

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,

Robert E. Nyce
Executive Director
wbg
Enclosure

cc: 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 Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Examiners in Speech-Language and Hearing

Regulation #16A-6802 (IRRC #2406)

Continuing Education

August 18, 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 Examiners in Speech-Language and Hearing (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on July 19, 2004. 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regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.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 45.13. Renewal; Inactive status; Required continuing education. - Fiscal impact; Reasonableness; Implementation procedures; Clarity.**
Section 45.501. Credit hour requirements. - Fiscal impact; Reasonableness; Implementation procedures; Clarity.

In Sections 45.13(g) and 45.501(a), the proposed regulation, as published in the *Pennsylvania Bulletin*, indicates that the continuing education requirement will become effective in the biennial period following the effective date of the regulation. However, this does not match the language in these same sections in the draft regulation submitted by the Board to the House Professional Licensure Committee, Senate Consumer Protection and Professional Licensure Committee, and this Commission. In addition, Board staff indicated that the hour requirement may be prorated if the regulation becomes effective in the midst of a biennial period.

The Board should clarify how and when the requirement will be implemented in the final-form regulation. It should also describe how it will provide adequate and timely notice to all licensees of the effective date and what will be required of licensees.

2. **Section 45.2. Definitions. - Reasonableness; Clarity.**

Continuing education record

There is unnecessary duplication and a minor inconsistency between the definition of this term and the list of required contents for the "continuing education record" in Section 45.506(b). The contents described in the definition are almost identical to the list in Sections 45.506(b)(1) - (5). The only item not included in the definition is Subsection (b)(6) which requires the record to include "[t]he course approval number or an indication of the provider's status as a preapproved provider." In the final-form regulation, the definition of this term should reference Section 45.506(b) to provide the reader with a complete description of "continuing education record."

3. Section 45.501. Credit hour requirements. - Reasonableness; Clarity.

Subsection (b) – Individual programs

Two commentators expressed concerns related to continuing education requirements for certification by the Pennsylvania Department of Education. Act 48 of 1999 requires that certified educators complete 180 hours of continuing education programs every five years. This requirement includes hours in collegiate studies or courses or programs “related to an area of the professional educator’s assignment or certification” (24 P.S. §§ 12-1205.2(c)(1)-(3)). The Pennsylvania State Education Association (PSEA) claimed that this proposed regulation duplicates the requirements under Act 48 of 1999. Both the PSEA and Pennsylvania Training and Technical Assistance Network request that the Board accept all continuing education provider programs approved under Act 48 of 1999 as approved continuing education providers for licensure renewal.

The Board states on page three of the Regulatory Analysis Form that it has “. . . determined that it would accept all credits that conform to its proposed regulation even if a licensee used that same educational experience to fulfill his or her requirements from the Department of Education.” To improve clarity and alleviate any misunderstanding, the Board should include this statement in the preamble of the final-form regulation.

Subsection (c) – Continuing education requirement

Subsection (c) states that the Board will not renew or reactivate a license “until the continuing education required prior to the current biennial renewal period has been completed.” This phrase and its application to new licensees are unclear. Does “the continuing education required prior to the current biennial renewal period” refer to courses taken three years earlier during a previous biennium? If so, how can new licensees comply with this provision if they are finishing their first biennial period as new licensees? The intent of this subsection needs to be clarified in the final-form regulation.

4. Section 45.504. Reporting completion of continuing education. - Clarity.

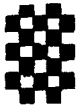
Subsection (a) requires licensees to provide “. . . on forms provided by the Board, a signed statement certifying that the continuing education requirement has been met.” The Board should consider describing the required content of these forms in the final-form regulation. A good example of the content for these forms can be found in the existing regulations of the State Board of Optometry at 49 Pa. Code § 23.87.

5. Section 45.505. Approval of continuing education programs. - Clarity.

In Subsection (d)(3), denial of a program can be based on faculty being “deemed not qualified to present the program.” The Board should explain in the preamble of the final-form regulation how faculty qualifications will be determined.

6. Section 45.507. Disciplinary action authorized. - Clarity.

Subsection (b) states that a licensee “. . . who fails to complete the required continuing education requirement within any biennial renewal period may be subject to discipline.” The Board should explain in the preamble to the final-form regulation what disciplinary actions the Board will take if the continuing education requirements are not met.



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: August 18, 2004
Pages: 4

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Examiners in Speech-Language and Hearing regulation #16A-6802 (IRRC #2406). 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: *Melanie E. Dege* **Date:** *8/18/04*
Secretary for Senior Deputy Chief Counsel
Dept of State

Fax5