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MURRAY UFBERG, ESQ.  
KIM KAUFMAN, 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

December 7, 2005

Ronald E. Hays, Chairman  
State Board of Social Workers, Marriage/Family Therapists and Professional Counselors  
2601 North Third Street  
Harrisburg, PA 17110

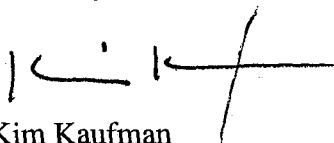
Re: Regulation #16A-699 (IRRC #2493)  
State Board of Social Workers, Marriage/Family Therapists and Professional  
Counselors  
Licensure Technical Amendments

Dear Chairman Hays:

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 regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,



Kim Kaufman  
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 Social Workers, Marriage and Family Therapists and Professional Counselors Regulation #16A-699 (IRRC #2493)**

### **Licensure Technical Amendments**

**December 7, 2005**

We submit for your consideration the following comments on the proposed rulemaking published in the October 8, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) to respond to all comments received from us or any other source.

#### **1. Section 47.1. Definitions. – Clarity.**

The Board is amending the definition of “accredited school” to reflect the fact that the Council on Social Work Education accredits graduate programs in social work and social welfare, not graduate schools. This amendment negates the need for the definition of “accredited program” which is, “A graduate school social work or social welfare program offered by a school accredited by the Council on Social Work Education.” We also note the term “accredited program” is not used anywhere else in Chapter 47. Therefore, the definition of “accredited program” should be deleted.

#### **2. Section 47.1a. Qualifications for supervisors. – Reasonableness; Implementation procedures.**

The Board is amending this section to allow licensed social workers from other states to qualify as supervisors. This provision was added to a subsection that will expire on January 1, 2006. We recommend that the provision be moved to a separate subsection of Section 47.1a, since the Board wants this to be permanent.

#### **3. Section 47.11. Licensure examination. – Protection of the public health, safety and welfare; Reasonableness; Statutory authority; Consistency with the intent of the General Assembly.**

Subsection (a) currently states that the examination required as a prerequisite to original licensure as a licensed social worker is the Association of Social Work Boards’ (ASWB) intermediate level examination. The Board is proposing to change the examination requirement to either the ASWBs’ master’s level examination or the clinical examination. We have two concerns.

First, this provision is inconsistent with the legislative intent of the General Assembly and lacks statutory authority. As noted by the House Professional Licensure Committee, the Board’s

amendment to Subsection (a) "violates the intent of the General Assembly as expressed in the Social Workers, Marriage and Family Therapists and Professional Counselors Act" (Act). Section 7(a)(3) of the Act requires an applicant for licensure as a social worker to pass "an examination duly adopted by the board." However, Section 7(d)(4) of the Act provides an escalated set of qualifications for applicants wishing to become licensed clinical social workers. That higher standard is passing a "clinical social work examination adopted by the Board." Under the rules of statutory construction, 1 Pa.C.S.A. Section 1921(a), the statute must be read to give effect to both provisions (Sections 7(a)(3) and 7(d)(4)). It is clear that the General Assembly believed it to be in the public interest to hold clinical social workers to a higher standard of qualification.

Second, as the ASWB has commented, this amendment is not sound policy because the master's level examination and the clinical examination are very different. They note the following: "... in permitting entry level MSW's to take the Clinical examination without the experience required in the statute and regulations, the Board would be allowing those who have not concentrated in clinical social work to advance to the status of prospective clinical social workers without the background to assure competence." ASWB believes this would be a disservice to the client community and an unfair expectation placed on the recent graduate. We agree with the ASWB and recommend that the required examination be limited to the master's level examination.

#### **4. Section 47.12a. Licensed social work. – Statutory authority; Conflict with existing regulations.**

This section lists the conditions that a licensee must meet to hold oneself out as a licensed social worker. Currently, licensees must graduate from a school that is accredited at the time of graduation. This mirrors the requirement found in Section 7(a)(2) of the Act. The Board is proposing to amend Subsection (a)(2) of the regulation by adding language that would allow the licensure of individuals who did not graduate from accredited schools. The Board lacks the statutory authority to allow individuals who have not graduated from an accredited school to obtain a license to practice social work. Therefore, this provision should be deleted.

If the Board proceeds with this section of the rulemaking as proposed, it would create an inconsistency between the licensure requirements of social workers and the requirements of provisional social workers and clinical social workers. Statutory and regulatory licensing requirements for both of these licensure classifications require applicants to graduate from accredited schools. Specifically, Section 7(b)(2) of the Act and Section 47.12b.(a)(2) of 49 Pa. Code require holders of a provisional license in social work to have graduated from an accredited school. Similarly, Section 7(d)(2)(i) of the Act and Section 47.12c.(a)(2) of 49 Pa. Code require holders of a clinical license in social work to have graduated from an accredited school. We question why one licensure classification of social worker should be held to a lesser standard than the other two classifications.

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**Facsimile Cover Sheet**

**Kristine M. Shomper**  
Administrative Officer



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

**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14<sup>TH</sup> FLOOR, HARRISBURG, PA 17101

**To:** Suzanne Hoy  
**Agency:** Department of State  
Licensing Boards and Commissions  
**Phone:** 7-2628  
**Fax:** 7-0251  
**Date:** December 7, 2005  
**Pages:** 4

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REVIEW COMMISSION

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors' regulation #16A-699 (IRRC #2493). 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: \_\_\_\_\_

Date: \_\_\_\_\_