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CHAIRMAN  
PROFESSIONAL LICENSURE COMMITTEE

November 23, 2005

John R. McGinley, Jr., Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harritown 2  
333 Market Street  
Harrisburg, PA 17101

Dear Chairman McGinley:

The House Professional Licensure Committee held a meeting on November 22, 2005, to consider the following:

Regulation 16A-699 – Proposed rulemaking of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors relating to technical amendments. The committee voted to take no formal action until the final regulation is promulgated. The committee submits the following comments:

1. The committee notes the reason for the change in the definition of "accredited school." The committee asks the board whether, in light of the change, the definition of "accredited program" in Section 47.1 should be deleted and whether other changes in the regulation should be made.
2. The committee notes the board's desire to allow those holding licenses in other states to supervise individuals completing the supervised experience requirement in order to obtain a license to practice clinical social work. The committee notes that the board has placed language accomplishing this in a provision which will expire on January 1, 2006.
3. The committee notes that individuals seeking to become clinical social workers must first be licensed as social workers and must pass a master's level examination. Once licensed as social workers, those social workers seeking to become clinical social workers must pass the clinical level examination. The committee also notes, according to the board, that some individuals who are seeking to become licensed social workers but who would one day like to be licensed as clinical social workers have asked the board to amend its regulations to allow them to take either the Association of Social Work Boards' master's level social work examination or the association's clinical level examination.

The committee notes the comments of the Association of Social Work Boards, the entity comprised of the boards which license social workers within the United States, including the Commonwealth of Pennsylvania, provided to the board in a letter dated October 20, 2005. The Association of Social Work Boards develops and administers the exams given in 49 states and the District of Columbia with respect to social workers. Those exams are: Bachelors, Masters, Advanced Generalist, and Clinical.

The letter of the Association of Social Work Boards, signed by Barbara Matz, Ed.D, M.S.W., L.C.S.W., states: "With the precision and care with which the Board has defined supervision, the qualifications for supervisors, and the supervisory process, it is evident that the Board wishes to uphold the highest standards in clinical social work. Yet 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 yet concentrated in clinical social work to advance to the status of prospective social workers without the background to assure competence. This is a disservice to the client community in not assuring that the graduate social worker is competent in the range of activities that might be involved in an entry-level position, and an unfair expectation of the recent graduate test taker who has not yet had the time and experience to service with clinical competence."

The committee also notes that, according to the Association of Social Work Boards, the two exams, clinical and master's level, are not the same and test different skills. The committee respectfully asks the board, based upon reasons of public policy with respect to assuring competence, that the board abandon its attempt to change the existing regulation regarding testing.

4. The committee objects to Section 47.11(a) of the proposed regulation with respect to the language which allows an individual applying to become a licensed social worker the option of taking the master's level examination or clinical level examination and respectfully asks the board to abandon this proposed change because it violates the intent of the General Assembly as expressed in the Social Workers, Marriage and Family Therapists and Professional Counselors Act.

Specifically, the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors does not possess the statutory authority to make such a change in public policy through regulation. Section 7(a)(3) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act mandates that an individual applying for a license to practice social work "pass an examination duly adopted by the board." Section 7(d)(4) commands that an individual applying for a license to practice clinical

social work pass “a clinical social work examination adopted by the board.” Additionally, Section 7(d) of the act requires that in order for an individual to apply to become a licensed clinical social worker, the individual must first hold a social workers license and complete at least three years or 3,600 hours of supervised experience.

If the board would like to make this change, then the board should ask members of the General Assembly to amend the statute.

5. The committee notes the board’s proposal to change the language of Section 47.12a. Specifically, the board is proposing to change the rule that, in order to be licensed, an individual must receive a master’s or doctoral degree from a school which is accredited. The board is proposing to add to this rule the following language found in paragraph (2) of Section 47.12a(a): “Beginning 2 years after the effective date of this rulemaking...” The effect of this language is to allow, for a period of two years, the licensure of individuals who are not graduating from accredited schools.

The committee objects to this proposed change and respectfully requests that the board abandon its proposal as it violates the intent of the General Assembly as expressed in the Social Workers, Marriage and Family Therapists and Professional Counselors Act.

Specifically, Section 7(a)(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act provides that an individual seeking a license to practice social work must have “received a master’s degree from an accredited school of social work or social welfare or a doctoral degree in social work.” There are similar rules with respect to graduating from an accredited school and being awarded a provisional license (Section 7(b)(2)) from the board, as well as a clinical social work license (Section 7(d)(2)(i)).

Regulation 16A-6910 – Proposed rulemaking of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors relating to child abuse reporting requirements. The committee voted to take no formal action until the final regulation is promulgated. The committee submits the following comments:

1. In all sections of the regulation that define “child abuse,” the committee recommends quoting the entire definition verbatim from the Child Protective Services Law, 23 PaCS 6303(b). The committee notes that the regulation does not include the language of 23 PaCS 6303(b)(2) or (b)(3).

2. The committee notes that the Child Protective Services Law provides that reports are to be made to both the county children and youth agency and to the Department of Public Welfare. The committee recommends the board add language to Section 48.52(a) and Section 49.52(a) to reflect this requirement.
3. The committee notes that the Child Protective Services Law requires written reports to be made to the county children and youth agency. The committee recommends that the phrase "to the county agency" be inserted after the words "written reports shall be made" in paragraph (2) of Section 48.52(c)(2) and paragraph (2) of Section 49.52(c). The committee further suggests that in both paragraphs, the board delete the phrase "on forms available from a county children and youth social service agency."
4. The committee notes that the board uses the same section numbers in two places, that of Section 48.57. There should be a Section 49.57. Further, the committee recommends language be added to Section 48.57 and what should be Section 49.57 to indicate that the provisions of Section 48.56 and Section 49.56 must be respected. Specifically, the committee recommends adding Section 48.56 and Section 49.56 to those sections listed in Section 48.57 Noncompliance and what should be listed as Section 49.57 Noncompliance. Similarly, the committee recommends the board check the numbering of the sections to make sure that the sections are numbered correctly.

Regulation 16A-5317 – Proposed rulemaking of the State Board of Osteopathic Medicine relating to respiratory therapists. The committee voted to take no formal action until the final regulation is promulgated. The committee submits the following comments:

1. The committee notes that Regulation 16A-5317 represents the board's intention to have the continuing education requirement apply to the next biennial renewal period, that of November 1, 2006 through October 31 2008. The committee recommends, for the sake of clarity, that Section 25.509a state this rule clearly. The committee is concerned that the current language does not accurately reflect the board's policy and will only lead to confusion on the part of certificate holders.
2. For the sake of readability and clarity, the committee recommends the board substitute the language found in Section 10.2(f)(3) of the Osteopathic Medical Practice Act for the language found in the new Section 25.509a(b) of the proposed regulation.
3. The committee recommends the words "all or a portion" be added after the word "waiver" appears the first time in the new Section 25.509a(c), as "all or a portion" is found in Section 10.2(f)(4) of the Osteopathic Medical Practice Act.

4. The committee recommends the language of the new Section 25.509a(c) track the language of the Osteopathic Medical Practice Act with respect to the waiver provision. Specifically, the committee recommends the board add the language found in Section 10.2(f)(4) regarding the request for waiver. The statute reads, "The request shall be made in writing, with appropriate documentation, and shall include a description of circumstances sufficient to show why the certificate holder is unable to comply with the continuing education requirement."
5. The committee seeks clarification from the board regarding the phrase "advanced course work in respiratory care" found in new Section 25.509b(b). Specifically, the committee asks the board whether it has provided enough guidance to certificate holders so that they will be able to discern which courses will be granted credit by the board and which will not.

Regulation 16A-4912 – Proposed rulemaking of the State Board of Medicine relating to respiratory care continuing education. The committee voted to take no formal action until the final regulation is promulgated. The committee submits the following comments:

1. The committee notes that Regulation 16A-4912 represents proposed rulemaking and also notes the regulated community will have to obtain 20 credits before December 31, 2006. The committee seeks detailed information from the board regarding its efforts to inform the almost 6,000 respiratory care practitioners in the Commonwealth regarding this requirement, as well as assurances that final rulemaking will be in place prior to December 31, 2006. Additionally, the committee asks the board, given that almost half of the biennial renewal period is over, whether it is appropriate to pro-rate the 20 hour requirement.
2. The committee asks the board for clarification regarding the language found in Section 18.309(c) Renewal of Certification. The language states, "To retain the right to practice, the certificate-holder shall renew certification in the manner prescribed by the Board, complete the continuing education requirement as set forth in Section 18.309a and pay the fee prior to the expiration of the next biennium." The committee notes that the proposed rulemaking issued by the State Board of Osteopathic Medicine on the subject of continuing education for respiratory therapists uses the same language except for the phrase "prior to the expiration of the current biennium." The committee asks the board to check its language and determine whether the word "next" should be replaced with the word "current."

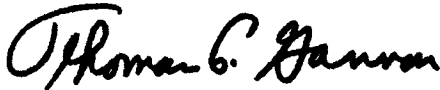
3. For the sake of readability and clarity, the committee recommends the board substitute the language found in Section 36.1(f)(3) of the Medical Practice Act of 1985 for the language found in the new Section 18.309a(a)(2) of the proposed regulation.
4. The committee recommends a colon replace the period in subsection (a) of the new Section 18.309a.
5. The committee recommends the words “all or a portion” be added after the word “waiver” appears the first time in the new Section 18.309a, as “all or a portion” is found in Section 36.1(f)(4) of the Medical Practice Act of 1985.
6. The committee recommends the language of the new section 18.309a(a)(3) track the language of the Medical Practice Act of 1985 with respect to the waiver provision. Specifically, the committee recommends the board add the language found in Section 36.1(f)(4) regarding the request for waiver. The statute reads, “The request shall be made in writing, with appropriate documentation, and shall include a description of circumstances sufficient to show why the certificate holder is unable to comply with the continuing education requirement.”
7. The committee recommends the term “certificate-holder” be used instead of the word “licensee,” which is found in the new Section 18.309a(a)(4).
8. The committee seeks clarification from the board regarding the phrase “advanced course work in respiratory care” found in new Section 18.309b(b). Specifically, the committee asks the board whether it has provided enough guidance to certificate holders so that they will be able to discern which courses will be granted credit by the board and which will not.

Regulation 16A-5127 – Proposed rulemaking of the State Board of Nursing relating to fees for approval of nursing education programs. The committee voted to take no formal action until the final regulation is promulgated. The committee submits the following comments:

1. The committee seeks detailed information from the board regarding the process for approving new education programs, as well as the fiscal process used for determining the new fees.

Please feel free to contact my office if any questions should arise.

Sincerely,



Thomas P. Gannon  
Chairman  
House Professional Licensure Committee

cc:   The Honorable Pedro A Cortes, Secretary of the Commonwealth  
          Department of State  
The Honorable Kenneth A. Rapp, Deputy Secretary  
          Regulatory Programs, Department of State  
The Honorable Basil L. Merenda, Commissioner  
          Bureau of Professional and Occupational Affairs  
The Honorable Peter V. Marks, Sr., Deputy Commissioner  
          Bureau of Professional and Occupational Affairs  
Albert H. Masland, Chief Counsel  
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          State Board of Medicine  
Thomas R. Czarnecki, DO, Chairman  
          State Board of Osteopathic Medicine  
Dr. Ron Hays, Chairman, State Board of Social Workers  
          Marriage and Family Therapists and Professional Counselors