

JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
ARTHUR COCCODRILLI
JOHN F. MIZNER, ESQ.
MURRAY UFBERG, ESQ.
KIM KAUFMAN, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417
FAX: (717) 783-2664
irc@irc.state.pa.us
<http://www.irc.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-6910 (IRRC #2498)
State Board of Social Workers, Marriage/Family Therapists and Professional Counselors
Child Abuse Reporting Requirements

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.irc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director

sfh

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-6910 (IRRC #2498)

Child Abuse Reporting Requirements

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.

This rulemaking adds child abuse reporting requirements to Chapter 48, relating to licensure of marriage and family therapists and Chapter 49, relating to licensure of professional counselors, of 49 Pa. Code. The House Professional Licensure Committee submitted comments on various provisions of this rulemaking. We concur with those comments that are discussed below.

1. Sections 48.51. and 49.51. Definitions relating to child abuse reporting requirements. – Clarity.

These sections contain a definition of “child abuse” that differs from the definition found in the Child Protective Services Law (Law). The statutory definition contains three sections. The proposed regulatory definition only contains the first section of the statutory definition. For consistency and clarity, we recommend that the Board add the missing text from the statutory definition to the regulatory definition of “child abuse.”

2. Sections 48.52 and 49.52. Suspected child abuse – mandated reporting requirements. – Clarity; Possible conflict with existing regulations.

Subsections (a) – General rule

These subsections require marriage and family therapists and professional counselors (licensees) to report suspected child abuse to the Department of Public Welfare (DPW). Section 6313(b) of the Law provides that licensees **must** orally report suspected child abuse to the DPW and may report suspected child abuse to the appropriate county agency. Section 6313(c) of the Law provides that licensees **must** report suspected child abuse to the appropriate county agency. The final-form regulation should be amended to reflect the fact that licensees have an obligation to report suspected child abuse to both the DPW and the appropriate county agency.

Subsections (c) – Reporting procedure

These subsections outline the specific reporting requirements for licensees. Subsections (c)(1) require licensees to orally report suspected abuse via telephone to DPW. Subsections (c)(2) require written reports to be made within 48 hours after the oral report is made by telephone. Similar to our concern on Subsections (a), the final-form regulation should clearly state that the written report must also be filed with the appropriate county agency.

Subsections (d) – Written reports

These subsections require written reports to be filed on forms prescribed by DPW. Subsections (d)(10) require the reporter to include: “Other information which the Department of Public Welfare may require by regulation.” DPW has promulgated regulations on the filing of written reports by a required reporter (55 Pa. Code Chapter 3490.18), which differ slightly from the proposed rulemaking. In the final-form regulation, the Board should either provide a citation to DPW’s regulation or use the exact language contained in that regulation.

3. Chapter 47. State Board of Social Workers, Marriage and Family Therapists and Professional Counselors. – Possible conflict with or duplication of statutes or existing regulation.

If the Board amends the proposed rulemaking as recommended above, it will differ from existing regulations of social workers on suspected child abuse found in 49 Pa. Code of Chapter 47. In order to provide consistency for all licensure classifications that fall under the Board’s jurisdiction, the following sections of Chapter 47 should be amended: Section 47.51, relating to the definition of child abuse; Section 47.52(a), relating to general rule; and Section 47.52 (c)(2), relating to written report.

In addition, if the Board makes any other changes to the proposed rulemaking, it should make similar changes to the corresponding sections of Chapter 47.

FROM

(WED) DEC 7 2005 9:27/ST. 9:26/No. 6880075411 P 3

DEC-07-2005 WED 10:25 AM

FAX NO.

P. 01/04

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: December 7, 2005
Pages: 4

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-6910 (IRRC #2498). 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: _____

12/7/05