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

May 7, 2008

Eva J. Bering, Chairperson
State Board of Examiners of Nursing Home Administrators
2601 North Third Street
Harrisburg, PA 17110

Re: Regulation #16A-629 (IRRC #2678)
State Board of Examiners of Nursing Home Administrators
Temporary Permits

Dear Chairperson Bering:

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. 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 P. Michael Sturla, Majority Chairman, House Professional Licensure Committee
Honorable William F. Adolph, Jr., Minority Chairman, House Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State

Comments of the Independent Regulatory Review Commission



State Board of Examiners of Nursing Home Administrators #16A-629 (IRRC #2678)

Temporary Permits

May 7, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the March 8, 2008 *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 Examiners of Nursing Home Administrators (Board) to respond to all comments received from us or any other source.

Section 39.17. Temporary permits – statement of policy. – Clarity and lack of ambiguity.

This proposed rulemaking amends § 39.1, pertaining to definitions and § 39.4, pertaining to admission to practice and temporary permits. The annex submitted with the proposal also amends § 39.17, a statement of policy pertaining to temporary permits. Statements of policy are nonregulatory documents that provide guidance by which an agency will carry out its duties. Unlike regulations, statements of policy are not enforceable. Consequently, they are not binding upon third parties and cannot include requirements that would impose penalties for noncompliance.

This Commission is charged with reviewing and approving regulations or amendments to regulations. If the Board intends to change the statement of policy to a regulation, we suggest that the text of § 39.17 be moved to § 39.4 and that § 39.17 be deleted or reserved. If the Board intends to keep § 39.17 as a policy statement, then § 39.17 and any amendments to it should not be included in the annex of the final-form regulation.

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Facsimile Cover Sheet

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

To: Tom Blackburn
Cynthia Montgomery ✓
Agency: Department of State
Licensing Boards and Commissions
Phone: 3-7200
3-3394 (Cynthia Montgomery)
Fax: 7-0251
Date: May 7, 2008
Pages: 3

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Examiners of Nursing Home Administrators' regulation #16A-629 (IRRC #2678). 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:

5/7/08