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INDEPENDENT REGULATORY
REVIEW COMMISSION

2762

May 12, 2009

Regulatory Unit Counsel
Department of State
P.O. Box 2649
Harrisburg, PA 17105-2649

Re: Proposed Rulemaking
49 PA. CODE CH. 37
39 Pa.B. 2218
Continuing Education

To whom it may concern:

Please permit me to offer my personal comments on the proposed rulemaking as published in the Pennsylvania Bulletin on Saturday, May 2, 2009 with respect to the above referenced proposed rulemaking.

Please also let me start off with stating that I am a long standing member of the State Registration Board for Professional Engineers, Land Surveyors and Geologists, having been first appointed in 1991 and currently serving in my third six year term as a professional land surveyor member of the Board.

My comments come from not only being a Board Member, but being both a licensed professional and a business owner. My comments are mine and mine alone and should not be construed to be that of other members of the Board.

With respect to the background, let me personally state that Act 170 of 2006 was a terrible bill, not one which anybody had any chance to comment on and the Registration Board was mandated to promulgate Rules and Regulations within 18 months for a bill that was unpopular. The Board did its part. Bear in mind there are currently two bills, similar in nature, attempting to correct flaws in Act 170, these are House Bill 587 and House Bill 975.

With respect to the published section referred to as Proposed 37.114, I have no idea where the number between 7,500 and 10,000 anticipated courses has come from. I was on the committee trying to draft meaningful rules and I never heard this number

mentioned. The number seems unreasonably high and can only be thought to be presented here to provide a "shock" to any person reading the proposed rulemaking. I believe that it is only appropriate that all courses be pre-approved, regardless of the number of courses applying for pre-approval. If for no other reason, the reason should be to prevent licensees from taking courses which may not be approved at a later date, thus causing the licensee to have to spend more money taking other courses and then passing this cost on to the end user the public

The original bill which preceded Act 170 was being lobbied for by the professional societies as a means of helping with their bottom line. Continuing Education is a cash cow when it comes to professional and technical societies and they know it. Unfortunately, nobody else has the money to lobby against them. Their push to get Continuing Education mandated has led us to where we are today.

One can only ask, how will this help the public? As a whole, continuing Education will raise fees licensed practitioners have to charge their customers for their services. John Q. Public has not been protected; they have been given a fee increase by the legislature.

With respect to the fiscal impact, the rulemaking absolutely has a fiscal impact. Let's go to the basics to attempt to look at this rulemaking. First, a course provider has to make application for courses to be approved, irrespective of before or after the licensee takes the course. This has a fiscal impact because the provider now has an increased cost.

The licensee now has to attend 24 CEU units per biennial renewal cycle. This now takes that licensee away from his/her work for approximately 3 days, and perhaps more. There is a cost to take the class and a cost to get to the class and perhaps even requiring lodging overnight. This is a fiscal impact.

Assuming the licensee works for a firm, that firm now has lost revenue from the licensee missing three days of "productions" which will require the employer to charge increased fees for the services provided. This is a fiscal impact.

There will be costs, unfunded I might add, the Board will have due to auditing of renewals for compliance, course approval documentation, manpower to review applications, and other related costs which nobody seems to think of. This is a fiscal impact. I would like to add that the Board currently has an overworked, understaffed workforce and this rulemaking and Act 170 only makes a bad situation worse. To add insult to injury, the current administration has prohibited Board Members from performing their duty by not being able to attend meetings out of state being held by the National Council of Examiners for Engineering and Surveying (NCEES).

The exemption from approval found in 37.114 with respect to a National Professional Society or affiliate or subsidiary along with statewide professional societies or affiliates or subsidiaries, to me, is absolutely absurd. The fox is watching the hen house. As a minimum, the Board should have to pre-approve every course offered by

these entities to ensure that the courses are relevant and beneficial to the licensee. These organizations are the ones pushing for the legislation and now this rulemaking wants to make them exempt? One has to wonder about the wisdom of this and what is the driving force.

As an example, the Pennsylvania Society of Land Surveyors polled their membership some time ago about Continuing Education. Bear in mind that this organization is the largest statewide technical society within the Commonwealth but does not even represent 50% of the licensee population of the Commonwealth. That poll showed approval of Continuing Education by a 51-49 percent vote. This means that less than 25% of the licensee population supported Continuing Education. Now that same group wants exemption from approval. The Board should require all courses to be pre-approved, whatever the cost and the legislature should permit the Board to hire additional staff to perform the services of a watchdog over these societies.

The goal of Continuing Education is to protect the public, not bring big account balances to the technical and professional societies. Perhaps we should even preclude those societies within the Commonwealth from conducting Continuing Education so as to let the public know somebody is looking out for them. As far as Act 170 and this proposed rulemaking is concerned, it does nothing but create additional costs for the consumer while filling the coffers of a select few technical and professional societies. John Q. Public will pay for this in the end.

I respectfully submit these comments and pray that somebody will get the message of what is really going on here.

Sincerely,

David H. Widmer, P.L.S.