

Comments of the Independent Regulatory Review Commission



State Board of Social Workers, Marriage/Family Therapists and Professional Counselors Regulation #16A-6918 (IRRC #2973)

Continuing Education Audit and Enforcement

November 8, 2012

We submit for your consideration the following comments on the proposed rulemaking published in the September 8, 2012 *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/Family Therapists and Professional Counselors (Board) to respond to all comments received from us or any other source.

1. Section 47.37. Reporting by licensee of hours spent in continuing education; continuing education audit and enforcement. - Implementation procedures; Clarity.

This section establishes the reporting requirements for licensed social workers to verify to the Board completion of the requisite amount of continuing education requirements necessary for license renewal. We raise five issues.

First, Subsection (b) states that the Board will “randomly audit licensees to ensure compliance with the continuing education requirements.” However, Subsection (b) does not explain the audit process. In the Preamble to the final-form regulation, we recommend that the Board provide a more detailed explanation for how it will conduct these random audits, including an average timeframe necessary to complete an audit, and the impact an audit will have on a licensee’s ability to practice.

Second, Subsection (c) states that a licensee who is deficient in continuing education hours is subject to formal disciplinary action or the issuance of a citation. The circumstances that would warrant imposition of these types of penalties are included in the companion piece to this rulemaking, submitted by the Bureau of Professional and Occupational Affairs. *See Proposed Regulation #16A-6917 (IRRC #2972): “Schedule of Civil Penalties - Social Workers, Marriage and Family Therapists and Professional Counselors.”* To improve clarity, we recommend that, in the final-form regulation, Subsection (c) include a cross-reference to Regulation #16A-6917.

Third, Subsection (c) states that a licensee who is deficient in continuing education hours is subject to “formal disciplinary action under section 11 of the act (63 P.S. § 1911) . . .” However, Subsection (c) does not reference the specific provisions in § 1911 that pertain to formal

disciplinary action. To improve clarity, we recommend that the final-form regulation specifically reference the subsections of § 1911 that apply to Subsection (c).

Fourth, Subsection (d) states that a deficient licensee has six months to make up the deficiency from the issuance of a warning letter, citation or the imposition of discipline. Since this is the first time the proposed regulation references a warning letter, the Board should clarify under what circumstances a deficient licensee would receive a warning letter.

Finally, Subsection (e) references “additional disciplinary action under section 11 of the act.” Where are the “additional disciplinary actions” set forth in § 1911? The final-form regulation should include specific cross-references to the relevant provisions in § 1911.

Similar language is included in the proposed regulation for licensed marriage and family therapists in §§ 48.38 (b), (c), (d) and (e), and for licensed professional counselors in §§ 49.38 (b), (c), (d) and (e). Therefore, in the final-form regulation we recommend that the Board also make similar changes to these provisions as those recommended above.