

## Comments of the Independent Regulatory Review Commission



### State Board of Occupational Therapy Education and Licensure Regulation #16A-6713 (IRRC #3331)

#### Licensure by Endorsement

April 6, 2022

We submit for your consideration the following comments on the proposed rulemaking published in the February 5, 2022 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the Act (71 P.S. § 745.5a(a)) directs the State Board of Occupational Therapy Education and Licensure (Board) to respond to all comments received from us or any other source.

#### 1. Clarity.

We note that Section 42.9(a)(1) (regarding licensure by endorsement) addresses only “license or certification,” whereas Subsections (a)(1)(i), (a)(2)(i), (a)(3), and (a)(4) address “license, certification, registration or permit.” We ask the Board to amend this Section to ensure that the provisions are clear and consistent.

#### 2. Clarity; Compliance with the RRA.

We ask the Board to amend the citation for its statutory authority in Regulatory Analysis Form Question #8. The cited 63 Pa.C.S § 3111 does discuss the Board’s obligation in issuing these licenses, but only mentions regulations “established by the licensing board.” We ask the Board to include 63 P.S. § 1505(b) of the Occupational Therapy Practice Act which provides for the Board’s actual authority to promulgate these regulations.

Also, in response to Questions #17, 19, and 23 regarding the financial impact on or cost to the applicant, we ask the Board to address the cost of a Criminal History Records Check.

#### 3. Comments, objections or recommendations of a committee.

The House Professional Licensure Committee (Committee) submitted the following comments on the proposed regulation:

1. *Section 42.9 (a)(1)(i)* – This section requires an applicant to submit a copy of the current law and regulations along with scope of practice requirements in the jurisdiction that issued a license, certificate, registration, or permit. The Committee

notes that Act 41 of 2019 does not explicitly state this requirement and the Committee recommends that the Board removes this responsibility from applicants and applies it to Board counsel.

2. *Section 42.9 (a)(4)* – This section states that an applicant must not have any discipline by the jurisdiction that issued the license, certificate, registration, or permit. The Committee recommends clarifying this section to specify the types of discipline (i.e., formal discipline or complaint) and the timeframe when such discipline occurred.
3. *Section 42.10 (b)(1)* – This section would give the Board authority to issue a provisional license for less than a year. The Committee states that it is unclear under what circumstances the Board would need to exercise this authority. The Committee asks for clarification.
4. *Section 42.10* – This section states that the Board will not issue subsequent provisional licenses after a provisional license expires. The Committee believes this section is unintentionally vague. Further, the Committee notes that Act 41 of 2019 does not specifically state that the Board shall only issue one provisional license. The Committee believes that this section should be amended to correct the unintended harm of limiting provisional licenses and the Committee further suggests incorporating a timeframe to reapply.

Under the RRA, the comments, objections, or recommendations of a Committee is one of the criteria the Commission must consider when determining if a regulation is in the public interest. When this proposed regulation is delivered as a final-form regulation to this Commission and the Committees for review, the issues raised by the Committee, and the Board's response to those issues, will be one of the criteria used by this Commission to determine if the regulation is in the public interest.