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

July 1, 1999

M. Christine Alichnie, Ph.D., R.N., Chairperson
State Board of Nursing
124 Pine Street
Harrisburg, PA 17105

Re: IRRC Regulation #16A-5112 (#2031)
State Board of Nursing
Fees

Dear Chairperson Alichnie:

Enclosed are our Comments on the subject regulation. They are also available on our website at <http://www.irrc.state.pa.us>.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact Chuck Tyrrell at 772-3455.

Sincerely,

Robert E. Nyce
Executive Director

REN:cae

Enclosure

cc: Robert G. Cameron
Joyce McKeever
Kim Pizzingrilli
Dorothy Childress
Office of General Counsel
Office of Attorney General
Pete Tartline

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION

ON

STATE BOARD OF NURSING REGULATION NO. 16A-5112

FEES

JULY 1, 1999

We have reviewed this proposed regulation from the State Board of Nursing (Board) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria our Comments address issues that relate to fiscal impact and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Sections 21.5. and 21.147 Fees. - Fiscal Impact and Clarity.

Administrative overhead costs.

In the proposed regulation's fee report forms, there are significant differences in the costs covered by different fees except for "Administrative Overhead" costs. With the exception of the fee for certification of scores, the administrative overhead costs are the same for all of the fees. According to staff at the Department of State and its Bureau of Professional and Occupational Affairs (BPOA), the allocated share of overhead costs for each fee category is calculated by dividing total overhead costs by the number of active licensees. This methodology for overhead cost allocation is not unreasonable and has been consistently applied. On the other hand, the staff cost allocations are based on estimates of the actual time BPOA staff spends performing the tasks related to each fee.

For overhead cost allocations, there appears to be no relationship to the services covered by the fees or frequency of fee payments. Therefore, there is no indication that the fees will recover actual or projected overhead costs. In addition, the allocated costs are based on past expenditures rather than estimates or projections of future expenditures. Hence, there is no certainty that the fees' "projected revenues will meet or exceed projected expenditures" pursuant to Section 7.5(a) of the Professional Nursing Law (63 P.S. § 667.5(a)) and Section 21.2(a) of the Practical Nurse Law (63 P.S. § 221.2(a)).

We question the use of a constant overhead cost allocation that appears to be unrelated to the actual costs of activities covered by different fees. Even though this process was used to determine other fees, why should BPOA maintain this approach? The Board and BPOA should specifically identify the overhead costs, or portion of the total overhead, to be recouped by these fees, and review their methodology for allocating these overhead costs. Is it the Board's goal to allocate all overhead costs by category to each fee? If so, we do not believe the current allocation formula gives the desired result.

Differing overhead costs

The administrative overhead costs for all fees are \$8.21, except for the certification of scores, which is \$9.76. The Board should explain why the administrative costs for certification of scores are different.