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*House of Representatives*  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

COMMITTEES

PROFESSIONAL LICENSURE,  
MAJORITY CHAIRMAN  
LIQUOR CONTROL  
FIREFIGHTERS' CAUCUS,  
COCHAIRMAN EMERITUS

October 24, 2001

ORIGINAL: 2136

John R. McGinley, Jr., Chairman  
Independent Regulatory Review Commission  
14th Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

Dear Chairman McGinley:

I am writing to inform you that the House Professional Licensure Committee held a meeting on October 23, 2001, and voted to approve Regulation 16A-644, State Board of Auctioneer Examiners; Regulation 16A-674, State Board of Occupational Therapy Education and Licensure; and Regulation 16A-5711, State Board of Veterinary Medicine.

The Committee voted to take no formal action on Regulation 16A-639, State Board of Psychology.

In addition, the Committee voted to take no formal action on Regulation 16A-4912, State Board of Medicine, until final form regulations are promulgated. However, the Committee submits the following comments:

1. The Committee requests clarification as to which non-physician health care providers the proposed regulations are directed. In explaining the provisions of proposed sections 18.401(a)(3) and (4), the Board states that a medical doctor can determine if a delegee is competent to perform a delegated procedure by determining whether or not the delegee is licensed or certified. If a health care provider is licensed or certified to perform a procedure, why would a delegation by a physician to perform the procedure be necessary?
2. The Committee requests clarification of proposed Sec. 18.401(a)(6). Who is responsible for explaining a delegation of services to a patient? Should the patient's consent or objection to the delegation be written?

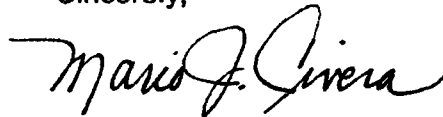
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3. The Committee requests clarification of proposed Sec. 18.401(b). Specifically, what kinds of medical services do not require medical education and training as opposed to those that do require medical education and training?
4. The Committee questions the necessity of including Sec. 18.401(f) in the proposed regulations. Under what circumstances would regulations of the Board prohibit another licensed or certified health care provider from practicing within the scope of that license or certificate?
5. Pursuant to Sec. 17c of the Act, a medical doctor is responsible for all medical services delegated to a health care practitioner or technician. Accordingly, the Committee recommends that proposed Sec. 18.401(a)(7) be amended to read: "The medical doctor assumes the responsibility for the delegated medical services, including performance of the service, and is available to the delegatee as is appropriate based upon the difficulty of the procedure, the skill of the delegatee and risk level to the particular patient."

If you have any questions, please feel free to contact me.

Sincerely,



Mario J. Civera, Chairman  
House Professional Licensure Committee

MJC/sms  
Enclosures

cc: Charles D. Hummer, Jr., MD, Chairperson  
State Board of Medicine  
Brian V. Harpster, V.M.D., Chairperson  
State Board of Veterinary Medicine  
Alex M. Siegel, J.D., Ph.D., Chairman  
State Board of Psychology  
Ralph M. Stewart, Chairperson  
State Board of Auctioneer Examiners  
Melanie A. Wennick, Chairperson  
State Board of Occupational Therapy  
Education and Licensure  
Honorable Kim H. Pizzingrilli, Secretary of the Commonwealth  
Department of State

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PROFESSIONAL LICENSURE  
REVIEW COMMISSION

### **Regulation 16A-674**

#### **State Board of Occupational Therapy Education and Licensure**

**PROPOSAL:** Regulation 16A-674 amends 49 PA Code, Chapter 42, regulations of the State Board of Occupational Therapy and Education Licensure by eliminating provisions which have become outdated or invalid, standardizing and simplifying language in other provisions, and adopting the most recent code of ethics in the profession.

Regulation 16A-674 is Final Rulemaking which was delivered to the Professional Licensure Committee on October 5, 2001. The Professional Licensure Committee has until October 25, 2001 to approve or disapprove the regulation.

**ANALYSIS:** Section 42.1, Definitions, would be amended by replacing the "American Occupational Therapy Certification Board" (AOTCB) with the "National Board for Certification in Occupational Therapy, Inc." (NBCOT), since the NBCOT is now the name of the national agency which prepares the certifying exam and determines whether or not exam candidates have met the minimum educational and experience requirements. Definitions would also be added for "service recipient" and "surrogate."

Sec. 42.3(a) would be eliminated in that it merely paraphrases Sec. 4(e) of the Act (63 P.S. Sec. 1504(e)) and does not reflect the actual frequency of Board meetings. The Board indicates that it has been meeting approximately six times per year for more than a decade. Sec. 42.19 would be amended to provide that foreign licensure applicants must comply with NBCOT rather than AOTCB requirements. Reference would now be made to foreign "educated" rather than foreign "trained" applicants since the NBCOT uses the term "educated" in all information and instructions provided to foreign students. Sec. 42.14(a)(3) would be eliminated as unnecessary and potentially confusing.

Sec. 42.18, Licensure requirement, would be eliminated in that it merely duplicates the language of Sec. 6(a) of the Act (63 P.S. Sec. 1506(a)). Sec. 42.19 would be added to advise licensees that they are responsible for notifying the Board of any name or address changes, in writing, within ten days of the change. The last name and address on file with the Board would be deemed a licensee's official name and address for the purpose of service of process and other legal papers.

Sec. 42.24, Code of Ethics, would be amended to reflect revisions made by the American Occupational Therapy Association (AOTA) in 1994. The code would contain six principals, each of which contain at least three subparagraphs. These principals include obligations to demonstrate a concern for the well-being of the recipients of services, respect the rights of the recipients of services, achieve and continually maintain high standards of competence, comply with laws and regulations governing the practice of occupational therapy in the Commonwealth, provide accurate information about occupational therapy services, and to treat colleagues and other professionals with fairness, discretion and integrity.

Sexual harassment would be added to Sec. 42.31 as an act of unprofessional conduct. Sections 42.32 and 42.33, relating to the complaint process and formal hearings, would be deleted in that they set forth procedures similar to those of the State Board of Medicine which were found unconstitutional by the Pennsylvania Supreme Court in the case of Lyness v. State Board of Medicine, 529 Pa. 535, 605 A.2d 1024 (1992). The Board does not believe that substitute regulations are necessary in that these procedures are adequately governed by Sec. 16(b) of the Act and the General Rules of Administrative Practice and Procedure, 1 Pa. Code Sec. 31.1 *et seq.*

**RECOMMENDATIONS:** It is recommended that the Professional Licensure Committee approve the regulation.

House of Representatives  
Professional Licensure Committee  
October 15, 2001