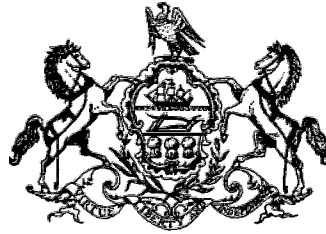


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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

PROFESSIONAL LICENSURE – MAJORITY CHAIRMAN
FINANCE
RULES
MAJORITY POLICY
CAPITOL PRESERVATION

#2701

June 25, 2008

Mr. Kim Kaufman
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RECEIVED
2008 JUN 25 PM 2:41
INDEPENDENT REGULATORY
REVIEW COMMISSION

RE: Final Regulation 16A-6911

State Board of Social Workers, Marriage and Family Therapists and Professional Counselors
Code of Ethical Practice and Standards of Professional Conduct

Dear Mr. Kaufman:

The House Professional Licensure Committee on this date voted to take no formal action on Regulation 16A-6911 until final regulation is promulgated and submit the following comments:

1. In §§47.70, 48.70 and 49.70, paragraph (a) specifies which licensee for which the regulation will apply, however, in other parts of the regulation, the language states “all licensees”. The Committee requests the language in subparagraph be changed to be consistent with the specific language in paragraph (a).
2. In §§47.70, 48.70 and 49.70, paragraph (b)(1)(iv) states that “the referrals must be made in a timely manner.” The phrase “in a timely manner” is ambiguous making it inappropriate for regulations in which a licensee could be sanctioned for. The Committee requests more specific language.
3. Regarding §§47.70, 48.70 and 49.70, paragraph (b)(2)(i), the Committee believes this paragraph is too broad. A licensee should not be required to notify a client/patient of every service available or all of the limits, rights, opportunities and obligations; only those in which the licensee has knowledge. Further, to require a licensee to know which “might affect the clients’/patients’ decisions” requires the licensee to be clairvoyant. The Committee requests that this language be more specific.
4. Regarding §§47.70, 48.70 and 49.70, paragraph (b)(2)(v), the Committee believes that because the internet and technology is constantly changing, the licensee should only be required to notify the client/patient of any associated limitations or risks in which the licensee has knowledge.

5. Regarding §§47.70, 48.70 and 49.70, paragraph (b)(4)(i), the language states "...in which failure to do so would violate other laws". The Committee asserts that this language is too vague and should specify what "other laws" are intended.
6. Regarding §§ 47.70, 48.70, and 49.70, paragraph (c)(1), the language which states "relates to clients/patients in more than one relationship, whether professional, social or business" is ambiguous. The Committee request alternative language that is clear as to the intended meaning. Also, the Committee requests more clarity in the language that reads "should be particularly aware". This phrase is ambiguous and the sentence in its entirety appears to be more suggestive than assertive.
7. Regarding §§ 47.70, 48.70, and 49.70, paragraph (c)(2), requires licensees to be "sensitive" to potentially harmful effect of other contacts. This requirement does not address a specific act or omission of an act. The Committee suggests the use of different language which is more assertive. This language also appears to be vague in that the term "potentially harmful" could be interpreted many ways. In addition, the term "other contacts" is not defined and appears unclear. The phrase "with whom they deal" does not specify if it is meant to only include professional relations. The end of the paragraph states "the other party" and the Committee suggests that this phrase be changed to specify client/patient. The Committee questions a requirement that would include every contact a licensee would make, professional and personal alike.
8. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(1)(i), the Committee would like to know what "pertinent ethical principles" and "cultural sensitivity appropriateness" means.
9. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(1)(ii), the Committee suggests that this term "standard acceptable practices" be defined. Paragraph (b)(1)(iii) defined the appropriate standard of care". The Committee believes the phrase "standard acceptable practices" should also be defined.
10. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(1)(iii), the licensee is required to warn subjects of "any possible" harm. The Committee suggests language similar to "likely harm" to alleviate the requirement for a licensee to warn of harm which the licensee may not be aware.
11. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(1)(iv), it appears that this section is in conflict with (e)(1)(iii) in that the licensee is responsible in (iii) but the principle researcher is responsible in (iv). The Committee request more clarity.
12. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(2)(i), the phrase "understandable to research participants" is used. The Committee questions how a licensee could draft a document and ensure that each and every participant understood the contents. Perhaps language that allowed for language the licensee believes could be understood by the general population of clients/patients would be more sufficient.

13. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(2)(i)(C), the language does not allow for those discomforts and risks most likely to occur but requires a licensee to describe all that a specific participant may incur. Since a licensee has no way of knowing all the discomforts and risks a participant may experience, the Committee suggests this language should clarify that the disclosure should only describe those discomforts and risks most likely to occur.
14. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(2)(ii), the Committee would like more information on what is meant by the term “minimal risk”.
15. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(2)(iii), the Committee noticed that the first two sentences appear to be in conflict with each other. The Committee requests language which would clarify.
16. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(2)(iii), the paragraph reads, “The obligation to protect this freedom requires special vigilance when a licensee is, in any manner,..” and the Committee questions the use of the phrase “in any manner”. The Committee suggests deleting this phrase in its entirety as it does not add any new meaning to the paragraph.
17. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(2)(vii), the Committee questions why the board chose to require a licensee to report all data collected to the participant “after” the study is completed if the reasoning is to remove any misconceptions.
18. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(2)(viii), the Committee would like more information on what is meant by the term “another individual” as it is ambiguous.
19. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(3)(iii), the Committee would like more information on how the board would require a licensee to communicate research to other licensees.
20. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(3)(iv), the Committee notes the use of the term “specific authorization” and would like a definition of this term as it appears to differ from the term “informed consent”.
21. Regarding §§ 47.70, 48.70, and 49.70, paragraph (e)(4)(i), the Committee finds the phrase “give full credit to those to whom credit is due” to be vague and requests more specificity.
22. Regarding §§ 47.70, 48.70, and 49.70, paragraph (f)(8), the Committee suggests that the language clarify which law is meant by the term “provided by law.”
23. Regarding §§ 47.70, 48.70, and 49.70, paragraph (g)(1), the Committee notes the board requires the licensee to keep records of the dates of termination but does not specify what is being terminated. The Committee suggests more specific language.
24. Regarding §§ 47.70, 48.70, and 49.70, paragraph (g)(5), the Committee questions the use of the phrase “possible and appropriate” as it is ambiguous. The Committee also suggests a reference to the Federal HIPPA law.
25. Regarding §§ 47.70, 48.70, and 49.70, paragraph (g)(6), the Committee requests clarification of statute. If state law is meant, the Committee recommends that change.

Mr. Kim Kaufman
June 25, 2008
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26. In general, the Committee suggests that the board revoke the proposed regulations and consider adopting a national standard for ethics currently established by the national associations.
27. In general, the Committee believes these regulations are unnecessary especially considering that only the Psychology Board has similar regulations. The Committee suggests general language as used in other board regulations to provide the board with the flexibility of considering each case on its own merits. The language which is general in nature would also allow for any change or scenario not mentioned specifically in the proposed regulations. The Committee strongly suggests revoking the proposed regulations.
28. In the alternative, The Committee finds the proposed regulations to be extremely vague and does not agree with many of the drafting techniques used by the board. For this reason, the Committee requests that the board revoke the proposed regulations in order to work more closely with the Committee on language for the proposed regulations.

Sincerely,

A handwritten signature in cursive script, reading "P. Michael Sturla". The signature is written in black ink and is positioned below the word "Sincerely,".

P. Michael Sturla
Chairman, House Professional Licensure Committee