



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12230

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DEPUTY COMMISSIONER FOR THE PROFESSIONS  
Office of the Professions  
Phone: (518) 474-3862  
Fax: (518) 473-2056

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**FOR DISCUSSION (Information, General)**

TO: The Honorable the Members of the Board of Regents  
Committee on Professional Practice

SUBJECT: Continuing Competence

**EXECUTIVE SUMMARY**

This report on continuing competence is the fourth in a series of informational reports on major emerging issues in professional regulation. Our previous emerging issues policy discussions included corporate practice, cross-jurisdictional licensure, and telepractice. These horizon issues have been identified by the Regents, the Department and the professional community as important regulatory and policy issues that are essential to the future of quality professional practice and public protection. The Board of Regents has used reports such as these, and events such as the Regents Conference on the Professions and the Regents Legislative Conference, to consistently identify best practices and strategies to actively shape the development of professional practice and regulation in New York State. These and other horizon issues will form the basis for the next Regents Conference on the Professions, "Professional Regulation in the 21<sup>st</sup> Century," on October 3, 2000.

This report provides an overview of the cutting-edge issues related to continuing competence, the challenges professionals and regulators face nationwide in addressing this important area and a description of actions the Office of the Professions has taken to promote the continued competence of licensed professionals in our State.

**WHAT IS PROFESSIONAL CONTINUING COMPETENCY?**

In its simplest form, continuing professional competence means that a licensee: 1) is at least as qualified to practice as at the time of licensure, and 2) has kept current with changes and developments in the profession since the time of licensure. However, virtually nothing in professional practice is as simple as this. In fact, many professionals specialize over their careers and develop advanced expertise while "dropping" some entry-level competencies. According to one nursing licensee, for example, "after 10 years of specializing in the care of adult patients in coronary care, I developed much high level

expertise in this aspect of nursing. However, I was no longer as competent as a new licensee to care for newborns."

Although regulators in the United States and other countries have been considering the issue since at least the early 1970's, neither they nor the professional community have agreed on the best way to ensure continuing competence.

## **BACKGROUND**

Continuing professional competence is an important component of the public protection equation that also includes:

- licensure of qualified individuals;
- public education; and
- swift professional discipline when necessary.

Competence is not specifically defined in New York State Education Law. Rather it is illuminated by multiple factors including disciplinary definitions and requirements for training and experience for specialized certifications. Section 6503 of the Education Law defines practice of a profession and states, "admission to the practice of a profession subjects the licensee to the procedures and penalties for professional misconduct." Part 29 of the Rules of the Board of Regents further defines unprofessional practice, which can subject a licensee to charges of professional misconduct. In addition, other sections of law, rules and regulations are aimed at promoting competence in certain general areas. For example, Sections 6507-3 and 6505-b of Education Law require specialized training in child abuse identification and reporting and infection control and barrier precautions.

Professionals work in a world of evolving technology, research advancements, expanding scopes of practice, increased consumer expectations and other emerging issues. Practice in this changing environment requires ongoing development of knowledge and skills. As the professional practice arena develops and expands, the Office of the Professions, as the administrative arm to the Regents, actively supports professionals in maintaining their competence over time.

## **QUALIFICATIONS AT INITIAL LICENSURE**

A New York professional license indicates that the Board of Regents and the Education Department, with the assistance of the State Boards for the Professions, has determined that an individual has met the requirements to enter practice of the profession in this State. The Regents and the Department contribute to the establishment of high standards by reviewing professional program curriculum and quality. As years pass and professions evolve, professionals are expected to maintain a high standard of practice and competency. The level of knowledge needed in today's professional marketplace, however, is increasing. To cite one illustration of this: in the late 1960's there were only about 600 commercially available drugs; today there are some 9,000 prescription drugs—

and with over-the-counter drugs that number jumps to about 13,000 commercial products available today. Not only is it necessary to remain current with all the new drugs, but along with those new products come a variety of side effects that practitioners must also know to ensure patient safety. It is, therefore, significantly more challenging to maintain professional competence today than it was 40 years ago. In all professions, the explosion of information and available technology creates similar challenges for the licensee and underscores the importance of the continuum of professional practice.

## **EDUCATING THE PUBLIC TO PREVENT PROFESSIONAL MISCONDUCT**

As important as it is to *discipline* incompetent professionals, it is equally important to actively *promote* sound practice. While professional discipline plays an important role in ensuring competence, it occurs after the fact. Career-long education, training, and assessment of competence help to *prevent* professional misconduct before it occurs and contribute to safe professional practice. Sound professional practice also reduces complaints and the need for costly and time consuming misconduct investigations and prosecutions. Our extensive public information campaign to consumers supports continuing competence indirectly by giving them the information they need to “shop smart” for professional services. As professional practice continues to evolve and expand, consumers, professionals and regulators must receive competent professional services.

## **GENERAL APPROACHES TO CONTINUING COMPETENCE**

A wide variety of strategies are being considered by professional regulatory bodies around the world in efforts to assure career-long professional competence. On the national level, groups such as the Pew Health Commission, the Citizen Advocacy Center, and the National Committee on Quality Assurance are highlighting the importance of continuing competence. In its October 1998 report, the Pew Health Commission’s Taskforce on Healthcare Workforce Regulation recommended that all healthcare professionals be required to meet specific competency requirements throughout their careers. Concerns about continuing professional competence are at the core of several recommendations of the 1999 Report of the Institute of Medicine, "To Err is Human: Building a Safer Health Care System." This report, which has attracted widespread attention to medical and prescription errors, recommends a variety of approaches to increasing patient safety including increased education and dissemination of information, re-examination and re-licensure.

There is no general agreement on which strategies are most effective; each has its pros, cons and unknowns. This report will look at six of these generally accepted strategies:

- Periodic re-examination
- Mandatory continuing education
- Educational outreach
- Peer review of on-site performance or portfolios

- Self-assessment
- National standards of professional competence

### **Periodic Re-Examination**

Just as applicants for licensure must pass a licensing examination, some have proposed that professionals be subject to periodic re-examination. New York State Podiatry, Medicine and Pharmacy Board members are considering requiring successful completion of the entry-level licensing exam for individuals seeking restoration of their professional licenses. This has already occurred in some cases, especially when the time period between revocation and restoration of the license is lengthy. Routine, periodic re-examination of current licensees does not occur at this time in our State.

Periodic re-examination was recommended in 1967 by the Bureau of Health Manpower (US Department of Health) for licensure of physicians. In 1971, however, the Bureau shifted the responsibility for ensuring competence to state professional associations.

#### ***—Considerations: Periodic Re-examination***

- Many professionals oppose re-examination, including the American Dental Association and National Association of Boards of Pharmacy—58% of pharmacists surveyed said testing is not a valid measure for determining continuing competence.
- Some opponents register concern about what type of exam to offer. Should an exam that is appropriate for determining the minimum competency of a novice practitioner be the vehicle for assessing the continuing competence of a seasoned professional?
- Opponents also cite the logistics of administering a mid-career exam to licensees who are scattered about the globe.

### **Mandatory Continuing Education (MCE)**

A surge of interest in mandatory continuing education (MCE) in the 1960's may have been spawned by the desire of professions for a more acceptable requirement than re-examination. MCE is now a common approach to assuring continuing competence; it is used to some extent by nearly all professions. There is considerable variation among professions and states, however; for example, only 12 states have a continuing education requirement in architecture, while all 50 states require continuing education in accounting. Chart 1 shows the number of states with continuing education requirements in 22 professions.

- Professional associations often support and seek authorization to provide MCE as a way to attract new members and gain financial benefits.

- Some state and national professional associations (e.g., medicine, podiatry, physical therapy, occupational therapy and speech-language pathology) augment required continuing education with specialty board certification, residency training, college courses, the State practical exam, voluntary competency exams and various other options for learning. In Ireland, the medical profession has adopted a "point system" of competence based on participation in an array of the options listed above.

### **—Considerations: Mandatory Continuing Education (MCE)**

"Seat" time in continuing education programs does not guarantee learning, and it cannot be directly related to a demonstration of competence. Some licensees prefer web-based programs for reasons of cost and convenience; if the impact of seat time is hard to determine, then the impact of web courses may be even harder to determine.

The American Psychological Association, for example, has expressed concern about the quality of MCE and the lack of courses for experts and specialists. Likewise, there is no agreement on the optimal number of annual credits needed to ensure competence. While New York State's study of MCE in accountancy concluded that MCE has a positive effect on knowledge, the study's conclusions are not universally accepted. Considerable variation in requirements exists among states and professions:

- In psychology, Kansas requires 50 hours of continuing education a year while Kentucky requires 10.
- For physical therapy, 50 hours are required in Nevada and 20 in New Mexico.
- Through legislative sunset provisions, the states of Colorado and Hawaii discontinued continuing education requirements for many of their professions, including nursing and physical therapy, because of high costs of courses to the individual practitioner, considerable costs to the state to administer the legislation, and the inability to demonstrate positive outcomes.
- The California Accountancy Board has stated that their 80 hours of annual MCE could be significantly reduced, possibly to just 40 hours, without negative impact on consumers.
- Chart 2 illustrates the variation in continuing medical education requirements in one region of the United States.

### **Educational Outreach**

Although concrete data is scarce, many believe that educational outreach is an important tool for promoting career-long professional competence. Informing consumers is one way to help ensure that those who practice do so lawfully and appropriately. The underlying theory is that if consumers of professional services are more knowledgeable of

their rights, what services to expect, what questions to ask, and the process for filing misconduct complaints, they will demand no less than high quality practice. This will encourage practitioners to maintain their professional skills and to acquire new skills to keep pace with changes in the profession and in technology. In addition, consumers who know to verify licensure status and discipline history before seeking professional services will be better able to protect themselves from potential harm.

Outreach to professionals in the form of advisories and practice updates by state licensing organizations is another important method used in the field to ensure professional competence. From the date of a professional's initial licensure to the date the individual stops practicing his or her profession, there will be numerous regulatory changes and many practice guidelines that will be impacted by technology, overlapping scopes of practice and other emerging issues. It is critical that the professional be up-to-date on the latest developments in order to render quality professional practice to their clients/patients. To support professionals in their efforts to remain current and competent, many regulatory bodies have begun to disseminate late-breaking practice information through advisories, newsletters, and updates in the mail and on the Web.

### **Peer Reviews of On-site Performance/Portfolios**

Peer review, either through an on-site performance evaluation or an assessment of a practitioner's portfolio, is proposed as a way for licensed professionals to provide feedback about the performance and competence of a fellow practitioner based on "real" practice settings, as in the case for on-site performance evaluations, or documentation of actual achievements. In Ontario, for example, portfolio reviews are used by nursing regulators in determining competence. Support for this alternative is not universal.

#### ***—Considerations: Peer Reviews***

- On-site performance evaluations by peers requires extensive resources, given the logistics of organizing such a system for a large group of professionals, some of whom may reside elsewhere in the nation.
- In England, on site performance evaluation of physicians by senior physicians has been severely criticized because of instances where the process has been believed to have been ineffective as, for example, when the views of established physicians thwart innovative practice or the acceptance of new research ideas.
- The experiment in England that used on site performance evaluations by peers to evaluate a practitioner's performance was also discontinued in part because of the \$10,500 cost for a two-day visit.
- Close scrutiny of the practitioner "in action" intrudes on clients and/or employers of the licensee.

- There is skepticism about the value of having a professional selectively determine the contents of a portfolio and about the ability of a peer review to provide appropriate recommendations for continuing education.
- The general public argues that peer review evaluations are suspect because peers tend to be lenient on each other.

### **Self-Assessment**

Self-assessment of competence requires professionals to have the ability to assess strengths and weaknesses and to be able to determine and follow-up on a program for improvement. In Ontario, physical therapy uses self-assessment as part of their approach to determine competence. Each year, all licensed practitioners are surveyed by the College on Physical Therapy of Ontario regarding the nature and characteristics of their practice. They are also required to keep a personal log detailing their self-assessed learning needs and skill deficiencies and how these areas have been addressed through continuing education. Follow up activity is then conducted by the regulatory agency with a small percentage of professionals in practice areas determined by the college to be important as a result of data collected in the self-assessment tools.

#### ***—Considerations: Self-Assessment***

Opponents question whether a professional who self-identifies weaknesses can be subject to professional disciplinary actions. They also cite the liability of a government regulatory body that is aware of identified professional practice weaknesses if subsequent charges of misconduct are brought.

### **National Standards of Professional Competency**

Before nationwide standards for competency can be set, basic agreement is needed among states on the critical elements necessary to determine what constitutes a professional competency assessment model (such as: standards, domains of practice, competencies and measurable outcomes). Several professions are taking related approaches:

- Medical professional associations across the country as well as state regulatory bodies are examining five domains for competency determination: knowledge, technical competence, patient service, management and communication, and cultural competence.
- The Federation of State Boards for Physical Therapy is attempting to develop standards that measure performance. The New York State Board is involved.
- The American Nurses Association has begun a five-year project to examine components of continuing competence and strategies for measuring it. The

association advocates that states defer competence monitoring to the professional association, without governmental involvement in the process, partly because of concern about misconduct charges if state regulators are involved and partly because memberships and revenues are likely to increase if the association monitors competence.

- Regulators in Mississippi are involving pharmacists in a pilot project sponsored by Health Care Finance Administration where competence is being evaluated through administration of the four *Assessment of Disease* state management exams. Once the pharmacists are credentialed their performance is then monitored and tied to increased Medicaid/Medicare reimbursement for their practice.

—**Considerations: National Standards**

- Proponents caution that the focus of regulatory bodies must be on winning compliance; they argue that it would be inappropriate to use competency evaluations to discipline individuals.
- Opponents argue that it is the responsibility of the states to regulate professional licensure and that the responsibility should not be abdicated to the federal government.

**NEW YORK AND CONTINUING COMPETENCE: WHAT WE ARE DOING NOW**

Professional regulation in New York State is widely acknowledged as being a national leader in meeting all statutory requirements related to licensure and professional discipline. Professional discipline plays an important role in ensuring competence and protecting the public. Under the leadership of the Board of Regents, however, we compliment our discipline efforts with actions to prevent misconduct. Throughout the years, the Regents have provided guidance and direction for addressing continuing competence through both outreach to licensees and to the public and the implementation of mandatory continuing education.

**Mandatory Continuing Education**

Mandatory continuing education (MCE) represents the other end of the spectrum of New York's current continuing competence actions. MCE laws provide concrete, prescriptive approach to continuing competence. To maintain their ability to practice in New York State, some professionals must, by law, demonstrate that they have earned a minimum number of continuing education credits, in specified subject areas from approved sponsors, within a particular timeframe. MCE provides an explicit, formal way to encourage a licensee's efforts to stay current with the field. The first attempt in New York to address competence throughout a professional's career through MCE, was the addition of New York's continuing education requirement in podiatry in 1972.

Typically, professional associations are the driving forces behind MCE legislation. MCE may seem to be a straightforward solution, but researchers continue to question whether there is any substantial evidence that it directly contributes to career-long professional competence.

The “simple” solution of MCE is far from simple. From the point of licensure, many professionals acquire unique experience and choose individual career paths that narrow to a professional specialization. MCE “prescriptions” must define useful standards, yet they must also be flexible enough to suit the diversity of practice within the profession. Ultimately, the success of MCE depends on the professional’s willingness and ability to identify studies that are relevant to the nature of her or his practice and knowledge needs. This judgment is not unique to MCE. While we define laws, rules, and regulations to guide professional practice, an inherent part of being a licensed professional is self-assessment, within the scope of the profession, of what services can be offered competently.

For example, New York State authorizes licensed accountants to attest to the accuracy of financial statements. Yet, a senior partner in an accounting firm, who hasn’t performed an audit in 20 years, may appropriately judge that she should *not* lead an auditing team if the assignment was available. The law says the attest function fits within the scope of her license, but her professional judgment—for which she is also held accountable—says that she should not take on that responsibility. The usefulness of MCE requirements, prescriptive as they may be, also depends on licensees making the right judgment call.

Eleven New York professions are currently subject to an MCE requirement, as indicated below. The State boards administer the requirement *and* ensure its relevance and effectiveness.

### Profession-Specific Continuing Education Requirements

Profession	Year Requirement Added	Requirement	Fee	Licensees Registered to Practice as of 4/1/00
Architecture	Law passed in 1999; to be fully implemented in January 2001	Each triennium: 36 hours, with no more than 12 hours via self-study.	\$45	14,279
Certified Public Accountancy	1987	Each <b>year</b> ending 8/31: 40 hours in recognized areas of study or 24 hours exclusively in accounting or auditing or taxation.	\$35	34,868
Public Accountancy		← same as CPA →		461
Dental Hygiene	1997	Each triennium: 24 hours, with no more than 10 via self-study.	\$30	9,045
Dentistry	1997	Each triennium: 45 hours, with no more than 15 via self-study.	\$45	17,332
Ophthalmic Dispensing	1997	Each triennium: 18 hours, those certified to fit contact lenses must complete 20 hours.	\$45	3,888
Optometry	1995	Each triennium: 36 hours in ocular disease and pharmacology.	\$0	2,090*
Pharmacy	1997	Each triennium: 45 hours, with no more than 22 via self-study	\$45	18,961
Podiatry	1972	Each triennium: 50 hours	\$0	2,429
Respiratory Therapy	Law passed in 1999; to be implemented in December 2000	Each triennium: 30 hours, with no more than 15 via self-study	\$30	4,585
Respiratory Therapy Technician	Law passed in 1999; to be fully implemented in December 2000	Each triennium: 24 hours, with no more than 12 via self-study	\$25	1,723
<b>Total</b>				<b>109,661</b>

\*(TPA certified licensees only)

Most professions having MCE requirements in New York State also approve MCE course sponsors. In addition to these profession-specific requirements, New York has enacted limited post-licensure education requirements across a range of health professions:

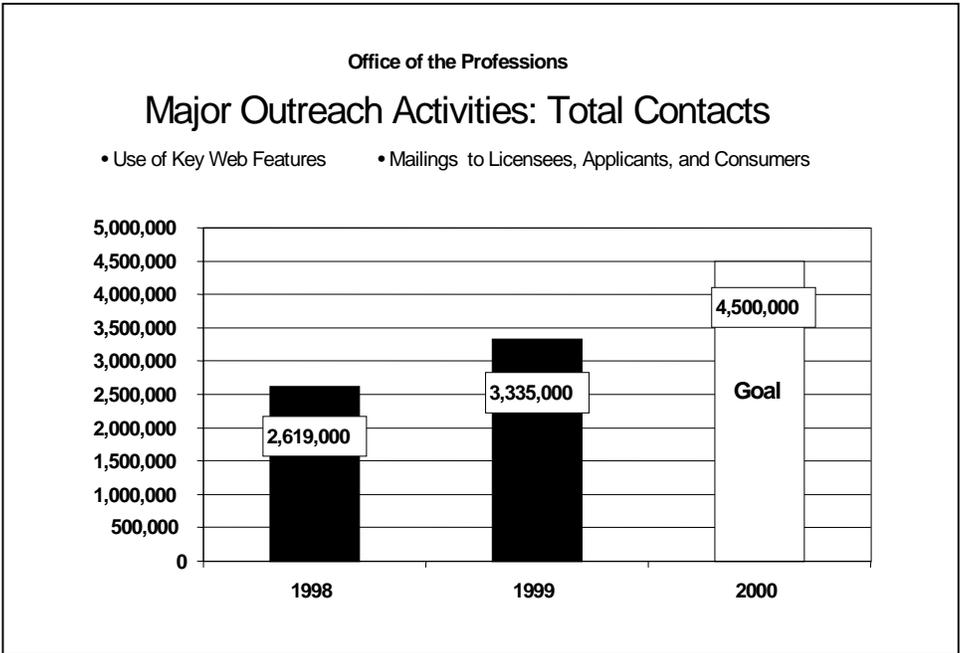
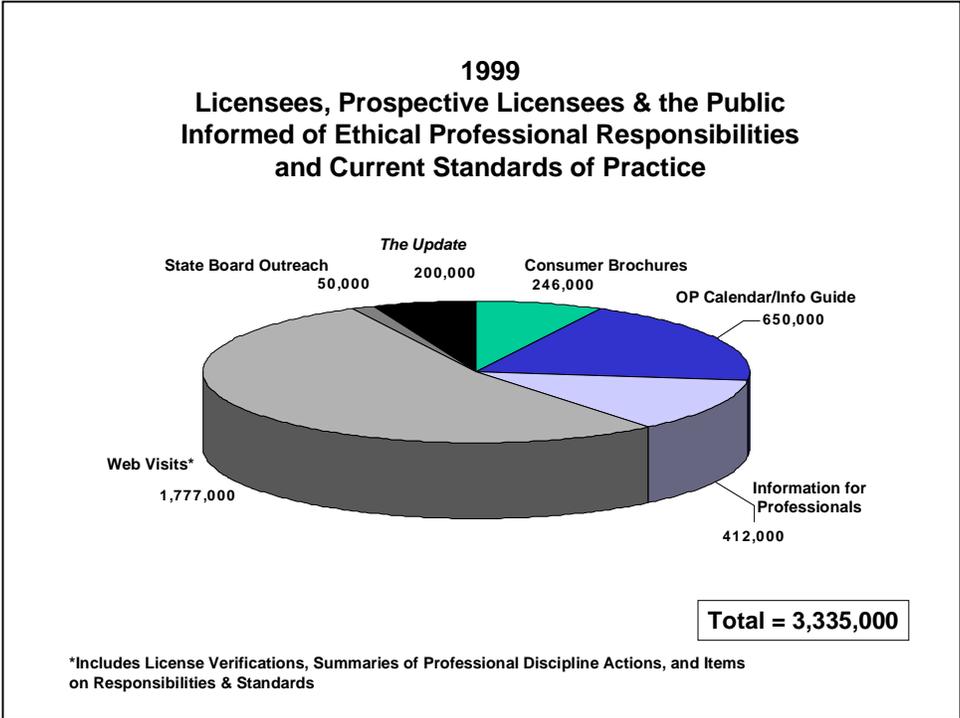
### Other Post-licensure Education Requirements

Required Coursework	Professions	Year Became Effective
<b>Child Abuse Identification and Reporting</b> (one-time, two-hour course)	<ul style="list-style-type: none"> <li>▪ Chiropractors</li> <li>▪ Dental hygienists</li> <li>▪ Dentists</li> <li>▪ Optometrists</li> <li>▪ Physicians (including psychiatrists)</li> <li>▪ Podiatrists</li> <li>▪ Psychologists</li> <li>▪ Registered nurses</li> <li>▪ School administrators/ supervisors</li> <li>▪ School service personnel</li> <li>▪ School teachers</li> </ul>	1991
<b>Infection Control</b> (course required every four years)	<ul style="list-style-type: none"> <li>▪ Dental hygienists</li> <li>▪ Dentists</li> <li>▪ Licensed practical nurses</li> <li>▪ Optometrists</li> <li>▪ Physicians</li> <li>▪ Physician assistants</li> <li>▪ Podiatrists</li> <li>▪ Registered professional nurses</li> <li>▪ Specialist assistants</li> </ul>	1994

New York, of course, is not alone in seeking ways to ensure the continuing competence of its licensed professionals. Professional organizations and other state regulators are also working to define useful approaches to this complex challenge.

### **Keeping Professionals and the Public Informed**

To keep all licensed professionals and the public informed with important professional information, the Office of the Professions has engaged in an extensive educational outreach initiative to professionals and the public over the last four years. This is an important extension of the Regents’ statutory charge to protect the public. By regularly communicating with professionals and consumers, we provide the information needed to offer and support sound professional services. This flexible approach, built on a variety of activities and publications, actively informs and encourages professionals to upgrade their knowledge of current practices and issues. In recent years, we have dramatically increased direct outreach to licensed professionals and consumers. In addition, we have broadened our dissemination of practice information to reach all professionals involved in the related systems of service delivery. This is in keeping with the view taken in the Institute of Medicine’s report “To Err is Human.” The following charts illustrate our major outreach initiatives to over three million individuals:



The Web, which accounts for a large portion of the outreach effort, includes discipline summaries and licensure status information, both of which help prevent illegal practice and underscore the importance of obtaining professional services only from licensed professionals. In addition, professionals review disciplinary information to assess the types of conduct that result in disciplinary actions. Beyond the licensure and disciplinary

feature, a wide variety of information is regularly made available to professionals and the general public to keep them current and informed. These include:

- written professional advisories (practice issues)
- practice guidelines for each profession
- regulatory/policy updates
- meetings with professional and regulatory organizations
- important professional events
- general publications
- Web-based information and forms

Critical information also is provided to professionals through direct mailings on general policy issues, practice advisories on specific professional issues, and professional practice guidelines. This has been done in professions including nursing, medicine, pharmacy, architecture, engineering, optometry, ophthalmic dispensing, accounting, dentistry and dental assisting. Examples:

- **Advisory to Nurse Practitioners and Physician Assistants.** A plain-language review of pertinent rules and regulations clarified for 81,000 physicians, nurse practitioners, and physician assistants of the laws and regulations that define the roles of nurse practitioners and physician assistants. This review was sent in recognition of the increasingly diverse yet collaborative roles these professionals are playing in the delivery of healthcare services. This clarification helped to ensure that appropriate comprehensive care is delivered safely and efficiently by each individual practitioner.
- **Major change in Regents Rules regarding pharmacy regulation.** Recent pharmacy regulations included important new responsibilities related to counseling requirements and electronic transmission of prescriptions – resulting in significant benefits for professionals and consumers alike. The Institute of Medicine’s report, “To Err is Human: Building a Safer Health System,” expressed concern for patient safety as a result of a decentralized health care system with multiple providers in different settings. To bridge the communication gap among health care professionals and to eliminate inconsistencies in interpretation, this clearly worded, question-and-answer explanation of new regulations went to more than 135,000 pharmacists, prescribers including physicians, dentists, podiatrists, optometrists, veterinarians, physician assistants, midwives and nurse practitioners, and representatives of related entities. This system-wide dissemination of information is being used with other distributions on issues including telepractice and corporate practice. The pharmacy information is also available on the Web and was use electronically by nearly 2,000 individuals in 1999. The advisory helped to ensure the successful implementation of these important changes while helping practitioners meet their.
- **Surgical technologists.** In response to serious questions raised in the field about qualifications required to serve as first assistant to surgeons and the incidents of possible illegal activities, the Office of the Professions issued an important practice

advisory to all physicians, nurses, and health care facilities. The advisory clarified that non-licensed personnel are not authorized to assist surgeons in this capacity, thereby ensuring public protection through the use of qualified licensees in these critical positions.

- **Design delegation.** We provided guidelines on design delegation to 40,000 architects and engineers; this document gave a plain-English explanation of the practical application of a new Regents Rule defining unprofessional conduct. Our advisory helps practitioners and contractors apply the Rule to real-life situations as was intended. These guidelines are also available on the Web and were used more than 2,000 times in that format in 1999.
- **Optometry, Ophthalmic Dispensers and Pharmacists.** Developments in other professions led to mailings to more than 80,000 licensees, as follows: over 35,000 licensed accountants (corporate practice); 25,000 optometrists, ophthalmic dispensers and pharmacists (dispensing of replacement contact lenses by pharmacies); 17,500 dentists (mandatory continuing education and certified dental assisting); and 2,600 optometrists (therapeutic pharmaceutical agents).
- **An Update on Accountancy Practice Issues** was sent to over 34,000 accountants to convey the practice implications of the key interpretations and court decisions relating to the corporate acquisition of the non-attest (non-professional) services of a public accounting firm.

We are also distributing advisories on **corporate practice and telepractice** to *all* currently registered professionals. As reported previously to this Committee, these topics are two of the emerging issues that have great potential to change the nature of practice and regulation in every profession. New York State's licensed professionals appreciate the Regents' clear direction so that their actions do not conflict with the standards for ensuring the protection of the public.

Outreach also includes the continued development of our widely used Web site so that it is dynamic and current while also maintaining an archive of essential information. Web-based information supports competent professional practice and is available 24 hours a day, 7 days a week. For example, while the discipline summaries serve the important goal of informing the public of substandard practice, they also serve the important purpose of alerting professionals to the types of substandard and incompetent practices that have been sanctioned by the Regents. Also, our **News & Upcoming Events** page highlights the latest developments in professional regulation in New York State. We are expanding the Web pages for specific professions to include practice guidelines and questions-and-answers on topics identified by the individual State boards; the Ophthalmic Dispensing page, for example, features an extensive Q&A on mandatory continuing education. The site also features a page devoted to the Professional Assistance Program, a program that supports professionals in recovery from addictive illness—often as an alternative to punitive action.

Events such as the **Regents Conference on the Professions**, **Regents Legislative Conference**, and OP's **Leadership Forum** encourage ongoing communications—with a variety of stakeholders—on current issues. These events help the Regents and the Department maintain an active dialog with the professional community. That relationship is vital when we need to communicate about regulatory changes, policies on specific practice issues, and more.

General publications such as *The Update* newsletter and the annual *Calendar & Information Guide* highlight basic Department services, accomplishments, regulatory issues, and contact points to help licensees stay in touch. They serve to identify the Office as **the** source for information on professional practice and regulation. General publications include those that are described below.

- *The Update* is distributed directly to approximately 5,000 legislators, State professional board members, professional associations, professional education programs, and others. Information from *The Update* can reach 200,000 customers or more when it is reprinted in association newsletters. In addition, a complete, electronic edition of *The Update* is available on our Website.
- The *Calendar/Guide* is sent annually to **all** currently registered professionals—over 640,000 licensees.
- Articles tailored for specific professional association newsletters such as: the Dental Society of the State of New York, the Dental Hygienists' Association of the State of New York and the CPA Society.

Educational activities also include staff participation in State, regional, and national meetings of professional and regulatory organizations. This allows us to participate in shaping professional regulation on a larger scale and to identify emerging issues in the field. By anticipating issues, we can define them in terms of public protection; rather than simply reacting to developments in the field, we can provide active guidance to professionals, prospective professionals and the public. These kinds of activities are regularly summarized in the Deputy Commissioner's Report to the Regents Professional Practice Committee and *The Update*.

The ongoing public education campaign unites outreach to **all** New York consumers and professionals. The initial phase of the campaign includes the translated consumer brochures on the professions as well as a recent partnership with Bell Atlantic that resulted in the placement of public service announcements in the Bell Atlantic Yellow Pages. The expanded campaign will build on these initial efforts by featuring direct mailings, Web-based information, enhanced outreach through conferences and meetings, and more. Target audiences will include the general public, professional licensees, schools, and professional and community groups. Information will be available in many formats (including print, Web, CD-ROM, and radio announcements) and multiple

languages. The goal is to promote competent professional practice and protect consumers from harm.

## **NEXT STEPS**

Regulators, consumers, and professionals all have defined continuing competence as an important public protection issue. Participants at the 1997 Regents Conference on the Professions agreed that ensuring continuing competence in the professions was critical to promoting qualified, ethical professional practice. The subject will again be among those featured at the Regents Conference on the Professions: *Professional Regulation in the 21<sup>st</sup> Century*, on October 3, 2000. The 1997 Conference identified and addressed critical competence-related issues; in 2000, we will further define the steps that support quality professional services against the backdrop of rapid change and technological innovations.

As more data are collected, OP will continue to assess options and evaluate data to determine what works and what doesn't. Based upon New York State's experiences with MCE and the data available to date, the Regents may want to consider focusing attention on three primary areas: research and benchmarking, legislative or regulatory actions, and enforcement to define a sound approach to continuing competence that significantly contributes to achieving the following goal:

**Regents Goal 3: *The public will be served by qualified, ethical professionals who remain current with the best practice in their fields....***

Actions for consideration follow.

### **—Research & Benchmarking**

- Continue to review efforts by the professions (professional associations, state board associations, etc.) to examine components of continuing competence, to develop standards, to identify measurement strategies, and to mandate continuing education.

### **—Legislation/Regulation**

- Ensure that all proposed MCE legislation include provisions authorizing the Department to disallow substandard continuing education programs and courses. Currently, some authorizing legislation only allows the Department to select providers, leaving the ability to monitor the specific coursework outside of our jurisdiction. Similarly, within the ability to examine coursework, we need to seek provisions in all proposed continuing education legislation that requires programs and courses to demonstrate effectiveness in achieving educational goals by the use of acceptable methods (e.g., pre-test and post-test or statistical measurement). Legislation should require the programs and courses to identify educational goals and how they are to be achieved.

- Seek to amend the Education Law (Section 6507) to define continuing education competency as achieved in "such approved programs or additional strategies, programs or courses, tests, reviews, as may be determined by the Department." This would provide clear authority to reject sponsors that are simply certificate mills.
- Seek to amend the Education Law (Section 6507(3)) to authorize the Department to develop additional strategies for assuring continuing competency in the professions that have continuing education requirements. Ensure that the Department can develop alternative methods and guidelines for promoting continued competency in the licensed professions.
- Amend the Regents Rules (Part 29) to add "failure to complete required courses in mandatory continuing education" as a basis for professional misconduct. This would eliminate the current burden of establishing that the licensee "willfully" failed to complete required continuing education.

**—Enforcement**

- Aggressively pursue current instances where continuing education requirements have been ignored by establishing misconduct cases where possible.
- State Boards should aggressively audit continuing education offerings to determine the degree to which they meet Department requirements. For example, from October 1999 to April 1, 2000, the Ophthalmic Dispensing Board audited 15 continuing education offerings; three offerings did not to meet our criteria. The Board rescinded the approval of two of the offerings; in addition, the sponsor was requested to develop a plan that would ensure that all offerings meet our criteria. Based on input from board members, Department criteria were clarified so that the satisfactory third offering, and others like it, are acceptable.
- Institute an "auditing protocol" for all professions with MCE to ensure that the process is structured soundly and consistent across professions.
- Highlight disciplinary decisions relating to professional practice, in print and on the Web publicize to ensure that practitioners and the public have all the needed information about current practice issues available to them. Explore indexing professional discipline summaries to simplify research on practice and competency issues.

As we look toward the year 2020, the Office of the Professions is committed to ensuring the continuing competence of New York's professionals in the face of profound changes in nearly all aspects of professional practice. The Regents leadership in

supporting this major area is critical through the promotion of quality, ethical services and by highlighting the knowledge professionals need to practice soundly. Clarification of the Regents authority over current continuing education requirements will also contribute to confidence in the quality of continuing education programs required for many of New York State's licensed professionals.

Board members and staff will be available for discussion and questions.

Respectfully submitted,

Johanna Duncan-Poitier

Approved:

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Date