

PROPOSED RULEMAKING

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Endorsement of Foreign Trained Nurses

The State Board of Nursing (Board) proposes to amend §§ 21.28 and 21.155 (relating to licensure by endorsement) to read as set forth in Annex A. The amendments would add new provisions to permit nurses who have been educated in foreign nursing programs to obtain licensure by endorsement. Also, the amendments would delete § 21.28(c) which requires the Board to issue letters of permission for applicants for endorsement to practice for 1 year from the date of application.

Registered Nurses

The Board wishes to delete language under § 21.28(c) which requires the Board to issue letters permitting applicants for endorsement to practice for 1 year from the date of application. Since section 4.1 of the Professional Nursing Law (63 P.S. § 214.1), now authorizes the issuance of a temporary practice permit, a letter of permission is unnecessary.

In addition, the Board is adding new language to subsection (c) pertaining to licensure by endorsement. Licensure by endorsement (without examination) is authorized under section 7 of the Professional Nursing Law (63 P.S. § 217). A person may be licensed without examination who: (1) is registered or licensed by examination in a jurisdiction of the United States or Canada; and (2) has completed a nursing program which the Board finds equivalent to the approved Board programs in this Commonwealth at the time the program was completed. Currently, § 21.28 pertains only to endorsement applicants who have graduated from an approved nursing program in the United States or Canada and qualified in the other state by passing the National Council Licensure Examination, the examination which the Board has adopted for graduates of Commonwealth nursing programs. Existing regulation pertaining to licensure of a graduate of a foreign nursing program is found only at § 21.23 (relating to qualifications of applicant for examination) pertaining to applicants for admission to the Board examination. That section requires that a nurse who has completed a nursing program in a foreign country (other than the United States or Canada) successfully complete a proficiency examination given by the Commission on Graduates of Foreign Nursing Schools (CGFNS). Read together, the two sections create an apparent anomaly: nurses educated in another country may be admitted to the National Council Licensure Examination and qualify for a license by passing the examination, but nurses educated in another country who have already passed the National Council Examination to qualify for a license in another state may not qualify for license by endorsement.

To obviate the necessity of the foreign educated nurse to pass the examination again to obtain a license to practice in this Commonwealth, the Board proposes to amend § 21.28(c). This subsection would authorize license without examination to a nurse who was educated in

another country, but who otherwise qualified for license in another state by examination and who seeks licensure by endorsement from that state. To further assist the foreign educated nurse in establishing the educational credentials, the new subsection would recognize the evaluation of foreign nurse programs done by the CGFNS as the means by which the Board would determine whether the CGFNS education is equivalent to the Board's approved program.

Practical Nurses

Although section 6 of the Practical Nurse Law (63 P.S. § 656) authorizes the Board to license without examination a practical nurse licensed in another jurisdiction who graduated from a foreign program if the program is considered equivalent to a program approved in this Commonwealth, the Board's regulations do not provide guidance on methods of determining equivalency. Section 21.155(a) permits the Board to compare examinations rather than programs. Accordingly, new subsection (d) would permit the Board to base equivalency of programs on an evaluation performed by the CGFNS.

Fiscal Impact and Paperwork Requirements

The proposed amendments will have no fiscal impact and will not impose additional paperwork on the private sector, the general public or the Commonwealth and its political subdivisions.

Statutory Authority

The Board has authority to promulgate these proposed amendments under section 2.1(k) of the Professional Nursing Law (63 P.S. § 212.1(k)) and section 17.6 of the Practical Nurse Law (63 P.S. § 667.6). These provisions authorize the Board to establish rules and regulations for the administration of the Law.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of these proposed amendments on September 13, 1996, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Professional Licensure and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed amendments, the Board has provided the Committees and IRRC with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Board within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Board, the General Assembly and the Governor of objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Beth Sender Michlovitz, Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-

2649, within 30 days following publication of the proposed amendments in the *Pennsylvania Bulletin*.

SISTER RITA MORIARTY, RN, MPA,
Chairperson

Fiscal Note: 16A-512. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES LICENSES

§ 21.28. Licensure by endorsement.

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(c) [An applicant for licensure in this Commonwealth by endorsement who holds a current license to practice nursing in another state or territory of the United States or Canada may practice nursing in this Commonwealth during the period that an application filed for licensure in this Commonwealth is pending before the Board, but not for more than 1 year. When the application is filed with the Board, a letter of permission for employment will be issued.] A registered nurse who has graduated from a nursing program in a country or territory outside of the United States or Canada and who is licensed by completing the National Council Licensure Examination in another jurisdiction of the United States or Canada may be granted licensure in this Commonwealth without examination if the applicant's program of study is deemed equivalent to the program of study required in this Commonwealth at the time the program was completed. The Board will base equivalency upon an evaluation performed by the Commission on Graduates of Foreign Nursing Schools (CGFNS) as to the foreign nursing program.

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Subchapter B. PRACTICAL NURSES LICENSES

§ 21.155. Licensure by endorsement.

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(d) A practical nurse who has graduated from a practical nursing program in a country or territory outside of the United States or Canada and who is licensed by completing the National Council Licensure Examination in another jurisdiction of the United States or Canada may be granted licensure in this Commonwealth without examination if the applicant's program of study is deemed equivalent to the program of study required in this Commonwealth at the time the program was completed. The Board will base equivalency upon an evaluation performed by the Commission on Graduates of Foreign Nursing Schools (CGFNS) as to the foreign nursing program.

[Pa.B. Doc. No. 96-1632. Filed for public inspection September 27, 1996, 9:00 a.m.]

STATE HORSE RACING COMMISSION

[58 PA. CODE CH. 163]

Claiming Races

The State Horse Racing Commission (Commission) acting under the authority conferred by section 202 of the Race Horse Industry Reform Act (4 P.S. § 325.202), proposes to amend § 163.254 (relating to starting of claimed horses).

A claiming race is one in which a horse is entered by its owner or trainer, or both, for a designated price and from which that horse may be claimed for that designated price. At least 10 minutes prior to the beginning of the claiming race, an eligible person seeking to claim a particular horse must first complete a form, place it into an envelope, seal it and time stamp it. The sealed envelope is then deposited into a claim box. The potential claimant shall simultaneously have on credit with the horsemen's bookkeeper, an amount of money at least equal to the specified claiming price and other applicable charges. No information as to the filing of claims may be given out until after the race has been run. The claim is thereafter reviewed by the Board of Stewards for completeness and accuracy. The claimed horse may not be delivered by the original owner to the successful claimant until authorization is given by the stewards.

A claiming race serves several functions within the racing industry. Initially, it is a vehicle by which an owner or trainer, or both, can classify the horse at an amount that accurately reflects that horse's value by competing at that price level. As such, claiming races serve to maintain a competitive balance among the horses, thus keeping the races fair and evenly matched. Claiming races also provide the opportunity for new owners or trainers, or both, to enter into the industry without a tremendous initial capital investment. Therefore, the claiming races provide individuals access to various quality horses.

Section 163.254, as presently promulgated, prohibits a claimed horse, for 30 days, from entering a race in which the eligibility price is less than 25% more than the price in which it was claimed. In essence, the owner or trainer, or both, is prevented from participating in a lower or similarly priced race as the one from which the horse was originally claimed. The horse, if it races within 30 days of being claimed, shall start in a race which is 25% higher in price. As set forth in Annex A, the proposed amendment will remove restrictions placed upon the owner/trainer from starting a claimed horse in a subsequent race. The deletion of the price restriction will bring the Commission's claiming rules in line with those of the State Harness Racing Commission and surrounding racing jurisdictions, such as New Jersey, Delaware and Maryland, none of which has a similar restriction.

Fiscal Impact

A. Political Subdivisions

The proposed amendment does not impose costs and has no fiscal impact upon the political subdivisions.

B. Private Sector

The proposed amendment does not impose costs and has no fiscal impact upon the private sector.

C. General Public

The proposed amendment does not impose costs and has no fiscal impact upon the general public.

Paperwork Requirements

The proposed amendment will not generate new paperwork for the public or this Commonwealth.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the proposed amendment on September 12, 1996, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House State Government Committee and the Senate State Government Committee. In addition to submitting the proposed amendment, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendment, it must notify the Commission within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Commission, the General Assembly and the Governor of objections raised.

Contact Person

Interested persons are invited to submit written comments regarding the proposed amendment within 30 days following publication in the *Pennsylvania Bulletin*. Comments shall be submitted to Benjamin H. Nolt, Jr., Executive Secretary, State Horse Racing Commission,

Room 302, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-1942.

Effective Date

The proposed amendment will become effective upon final adoption.

BENJAMIN H. NOLT, Jr.,
Executive Secretary

Fiscal Note: 34-61. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 58. RECREATION****PART IV. HORSE RACING COMMISSION****CHAPTER 163. RULES OF RACING****CLAIMING RACES****§ 163.254. Starting of claimed horses.**

[For a period of 30 days after the claim, a claimed horse may not start in a race in which the determining eligibility price is less than 25% more than the price at which it was claimed. The day claimed does not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the 31st calendar day following the claim for any claiming price. This section does not apply to starter handicaps in which the weight to be carried is assigned by the handicapper.] A claimed horse may immediately start in any subsequent claiming race, subject to compliance with this chapter, regardless of the claiming price for which it was claimed.

[Pa.B. Doc. No. 96-1633. Filed for public inspection September 27, 1996, 9:00 a.m.]