

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF CHIROPRACTIC [49 PA. CODE CH. 5]

Examination and Business Provisions

The State Board of Chiropractic (Board) amends §§ 5.6, 5.12, 5.15, 5.16 and 5.32 pertaining to examinations and professional corporations, to read as set forth in Annex A.

Under section 502 of the Chiropractic Practice Act (act) (63 P. S. § 625.502), examinations for licensure must be prepared and administered by a professional testing organization. Section 502(d) of the act excepted oral and practical examinations until these examinations were available from a testing organization. Recently, the National Board of Chiropractic Examiners (NBCE), the testing organization which administers Parts I—III of the National Board Examination, developed an oral and practical examination component of the National Board Examination which is known as Part IV.

All parts of the National Board Examination are given at the seven chiropractic schools in the United States at the conclusion of an academic term in November and May. For this reason, the Board does not contract with the NBCE separately to administer this examination, nor does the Board collect a fee for the National Board Examination. Therefore, § 5.6 (relating to fees) will be amended to delete reference to the fee for the Board administered examination and § 5.12(a)(4) (relating to licensure by examination) will be amended to delete reference to a Board administered examination and to insert language adopting Part IV of the National Board Examination as the oral/practical portion of the licensure examination. Section 5.15(a)(1) (relating to licensure examinations) has been similarly amended to include Part IV as a required component of the National Board Examination. Section 5.15(a)(2) has been amended to delete reference to the former examination given by the Board and revised to provide that, in addition to Parts I—IV, candidates must take and pass the Pennsylvania Chiropractic Law Examination which is given by a professional testing organization under contract to the Board.

The Board has also made editorial changes to § 5.12 to correct the references to an approved chiropractic college and the National Board Examination. Section 5.32 (relating to corporate and fictitious names; professional corporations) has also been amended to correct a grammatical error as well as the accidental inclusion of both a proposed version and a final version of subsection (b).

Public notice of intention to amend these sections under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL), has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)) because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 502 of the act requires that the Board use examinations prepared and administered by a qualified and approved professional testing organization when these examinations become available. In addition, the

amendments to §§ 5.12 and 5.32 are corrections of grammatical, typographical and clerical errors in the current regulations which will have no substantive effect on the regulations.

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulations address a compelling public interest as described in this Preamble and otherwise comply with Executive Order 1996-1.

Statutory Authority

These amendments are adopted under the authority of section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and section 302(3) of the act (63 P. S. § 625.302(3)).

Fiscal Impact and Paperwork Requirements

The amendments will have no fiscal impact on the Commonwealth or its political subdivisions. Candidates for licensure by examination will be required to pay increased fees for Part IV of the National Board Examination and the Pennsylvania Chiropractic Law Examination.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on April 4, 1997, a copy of the amendments were submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the amendments were submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5(c) of the Regulatory Review Act, the amendments were approved by the House Committee on Professional Licensure on April 23, 1997, approved by the Senate Committee on Consumer Protection and Professional Licensure on April 15, 1997, and approved by IRRC on May 1, 1997.

Additional Information

Interested persons are invited to submit written comments, suggestions or objections regarding the amendments to Deb Smith, Board Administrator, State Board of Chiropractic, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7156.

Findings

The Board finds that:

(1) Public notice of intention to amend the regulations as adopted by this order under the procedures specified in sections 201 and 202 of the CDL, has been omitted under the authority contained in section 204(3) of the CDL, because the Board has, for good cause, found that the procedure specified in sections 201 and 202 of the CDL, is in this circumstance, unnecessary, because section 502(d) of the act requires that the oral/practical examination for licensure be prepared and administered by a professional testing organization as soon as the examination is available from a professional testing organization.

(2) Persons affected by the amendments as adopted by this order have been given actual notice of the Board's intention to amend the regulations in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 5, are amended by amending §§ 5.6, 5.12, 5.15, 5.16 and 5.32 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

RANDY W. MCCALL, D.C.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 2490(May 17, 1997).)

Fiscal Note: 16A-438. 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 5. STATE BOARD OF CHIROPRACTIC

Subchapter A. GENERAL PROVISIONS

§ 5.6. Fees.

The Board will charge the following fees:

Pennsylvania Chiropractic Law Examination	\$87
Application for Licensure by Examination	\$25
Application for Licensure by Reciprocity	\$65
Biennial Registration	\$210
Limited License	\$30
Adjunctive Procedure Certification	\$25
Certification of Grades or Licensure	\$25
Application for Continuing Education Course Approval	\$30
Radiological Procedures Examination	\$75
License Restoration	\$25

Subchapter B. LICENSURE, CERTIFICATION, EXAMINATION AND REGISTRATION PROVISIONS

§ 5.12. Licensure by examination.

(a) An applicant for license by examination shall present evidence of the following:

(1) Graduation from an approved chiropractic college.

(2) Passing scores on Parts I, II, III and IV of the National Board Examination.

(b) The applicant shall complete an application obtained from the Board detailing the applicant's education and experience, and certifying that the applicant has met the requirements for licensure under the act and this chapter. The application shall be returned to the Board with the required fee.

(c) The applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with § 5.41 (relating to certification of professional liability insurance). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice chiropractic in this Commonwealth. Upon issuance of the license, the licensee has 30 days to submit to the Board the certificate of insurance or a copy of the policy declaration page as described in § 5.41. The effective date of this subsection is September 1, 1988.

§ 5.15. Licensure examinations.

(a) To qualify for licensure by examination, an applicant shall successfully complete the following examinations:

(1) Parts I, II, III and IV of the National Board Examination.

(2) The Pennsylvania Chiropractic Law Examination developed, prepared, administered and graded by the professional testing organization approved by the Board.

(b) The applicant shall apply to the NBCE for admission to the National Board Examinations and pay the required fees at the direction of the NBCE.

(c) The applicant shall be responsible for directing that the NBCE send examination results and other information requested to the Board.

(d) Passing scores on the National Board Examinations shall be established by the NBCE for each administration of the National Board Examinations in accordance with section 502(e) of the act (63 P. S. § 625.502(e)). A passing score on Part IV of the National Board Examination obtained at any time since Part IV has been offered by the NBCE will satisfy the Part IV National Board Examination requirement under § 5.12(a)(4) (relating to licensure by examination).

(e) An application to take the Pennsylvania Chiropractic Law Examination shall be submitted with the required application fee specified in § 5.6 (relating to fees) to the Board approved professional testing organization at least 60 days prior to the date of the examination.

§ 5.16. Failure on examination; reexamination.

(a) An applicant who fails one or more of the National Board Examinations is eligible for reexamination in accordance with the rules and regulations of the NBCE.

(b) An applicant who fails the Pennsylvania Chiropractic Law Examination may take a reexamination within 2 years. If the applicant fails the reexamination, the applicant may be required to complete studies as directed by the Board prior to reapplication for licensure.

Subchapter C. BUSINESS ASPECTS OF PRACTICE

§ 5.32. Corporate and fictitious names; professional corporations.

(a) Fictitious and professional corporation names shall meet the following conditions:

(1) The corporate name shall end with the words corporation, incorporated, professional corporation or a derivative thereof.

(2) The fictitious or corporate name shall contain the word chiropractor, chiropractic, doctor of chiropractic or D. C., unless incorporated under this section.

(3) The fictitious or corporate name may not have been previously filed with the Corporation Bureau and approved by the Board and in current use by another licensee.

(4) The fictitious or corporate name may not indicate or suggest by its terms an official status or affiliation with Federal, State, county or municipal governmental entity.

(5) The fictitious or corporate name may not contain false, deceptive or misleading terminology.

(b) A licensee may form a professional corporation with other licensees or other licensed health care practitioners who treat human ailments and conditions and who are licensed to provide health care services in this Commonwealth without receiving a referral or supervision from another health care practitioner.

[Pa.B. Doc. No. 97-822. Filed for public inspection May 23, 1997, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY
[49 PA. CODE CH. 7]
Examination Fees

The State Board of Cosmetology (Board) amends § 7.2 (relating to fees) pertaining to examination fees for licensure for cosmetologists, cosmeticians, manicurists, teachers and cosmetology shop managers to read as set forth in Annex A.

Under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and section 16(a) of the Cosmetology Law (act) (63 P. S. § 522(a)), examinations for licensure must be prepared and administered by a professional testing organization under contract to the appropriate board. This amendment will change fees for examinations to candidates for licensure to reflect actual contract costs for examination services as the result of the award of a new contract with a professional testing organization.

Public notice of intention to amend the regulation under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination. Persons affected by the amendment have been given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL.

In developing specifications for a new testing contract, the Board conducted a review of its examinations and procedures. As a result of the review, the Board determined that the Pennsylvania law portion of the examina-

tion is not cost effective. The Board believes that questions necessary to determine competence in professional practice can be adequately covered in the written examinations. Accordingly, the Pennsylvania law examination and its fee are deleted from the regulations for all license categories. The Board also decided to rename the practical examination as the performance examination to more accurately describe the examination's scope. The performance examination is required for licensure as a cosmetologist, cosmetician, manicurist or teacher. The theory portion of the examination will continue to be required of all applicants including managers.

As a result of the procurement process for a new testing contract, the fees for the five license categories (cosmetologist, cosmetician, manicurist, teacher and manager) will be the same. Therefore, the Board has been able to further simplify its regulation by reducing 19 separate fees to three.

To accomplish this objective, the Board has restructured § 7.2 in its entirety. Existing subsections (a) and (b) referencing prior year's examinations are deleted. New subsection (a) will be reserved for examination fees. In new subsection (b), the Board places other fees charged by the Board not changed in this rulemaking.

The following chart summarizes the change in fees for each license category.

FEE STRUCTURE

	<i>OLD</i>	<i>NEW</i>
Cosmetologist and Manicurist	\$52.50 Complete	\$59
	\$27 Written (theory)	\$31
	\$24 Practical	\$28
	\$18.50 Pa. Law	Deleted
	\$69.50 Total if taken separately	\$59
Cosmetician and Teacher	\$52.50 Complete	\$59
	\$27 Written (theory)	\$31
	\$24 Practical	\$28
	\$18.50 Pa. Law	Deleted
	\$69.50 Total if taken separately	\$59
Manager	\$28.50 Complete	
	\$27 Written (theory)	\$31
	\$18.50 Pa. Law	Deleted
	\$45.50 Total if taken separately	

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directive of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Statutory Authority

This amendment is proposed under section 812.1 of The Administrative Code of 1929 and section 16 of the act.

Fiscal Impact and Paperwork Requirements

The proposed amendment will have no fiscal impact on the Commonwealth or its political subdivisions. Candidates for licensure by examination will be required to pay the actual costs of the examination.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on April 4, 1997, a copy of the amendment was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the amendment was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5(c) of the Regulatory Review Act, the amendment was approved on April 15, 1997, by the Senate Consumer Affairs and Professional Licensure Committee on April 15, 1997, approved by the House Professional Licensure Committee on April 23, 1997, and approved by IRRC on May 1, 1997.

Additional Information

Individuals who desire information are invited to submit inquiries to Sara Sulpizio, Board Administrator, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7130.

Findings

The Board finds that:

(1) Public notice of intention to amend the regulation as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(3) of the CDL, because the Board has, for good cause, found that the procedure specified in sections 201 and 202 of the CDL, is in this circumstance, unnecessary, because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination.

(2) Persons affected by the regulation as amended by this order have been given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulation of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 7, are amended by amending § 7.2 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*, and shall apply to examinations administered in July 1997 and thereafter.

CAROL T. MICCICHE,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 2490 (May 17, 1997).)

Fiscal Note: 16A-453. 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 7. STATE BOARD OF COSMETOLOGY
GENERAL PROVISIONS**

§ 7.2. Fees.

(a) The fee for the cosmetologist, cosmetician, manicurist or teacher examination is \$59. The fee for the manager theory examination is \$31. The fee for each portion of an examination is:

Theory examination.....	\$31
Performance examination (not applicable to managers).....	\$28
(b) Other fees charged by the Board:	
Licensure of cosmetologist, manicurist or cosmetician	\$ 5
Licensure of cosmetology shop manager or cosmetology teacher.....	\$10
Licensure of cosmetology shop, manicurist shop or cosmetician shop.....	\$35
Licensure of cosmetology school.....	\$95
Licensure by reciprocity.....	\$25
Registration of cosmetology apprentice	\$35
Biennial renewal of manicurist's license	\$21
Biennial renewal of cosmetician's license	\$21
Biennial renewal of cosmetologist's license.....	\$23
Biennial renewal of cosmetology shop manager's or cosmetology teacher's license	\$36
Biennial renewal of cosmetology shop's license	\$41
Biennial renewal of cosmetician or manicurist shop's license	\$25
Biennial renewal of cosmetology school's license.....	\$66
Approval of cosmetology school supervisor	\$10
Change in cosmetology shop (inspection required) ...	\$35
Change in cosmetology shop (no inspection required)	\$15
Reinspection of cosmetology shop.....	\$15
Certification of licensure	\$10

[Pa.B. Doc. No. 97-823. Filed for public inspection May 23, 1997, 9:00 a.m.]

STATE BOARD OF OPTOMETRY

[49 PA. CODE CH. 23]

Fees

The State Board of Optometry (Board) amends § 23.91 (relating to fees), to read as set forth in Annex A. The objective of the amendment is to establish an application fee for certification of an optometrist to prescribe and administer pharmaceutical agents for therapeutic purposes (commonly referred to as TPAs). The fee will offset the identifiable costs incurred by the Board to process an application for certification and defray a portion of the Board's overhead.

The Optometric Practice and Licensure Act (63 P. S. §§ 244.1—244.12) was amended by the act of October 30, 1996 (P. L. 721, No. 130) (Act 130) to require, inter alia, the certification and regulation of the prescription and administration by optometrists of TPAs. The Board is

required to certify eligible optometrists in two categories. The first requires an applicant to have: (a) graduated from an accredited school of optometry where a condition for graduation is or was the successful completion of a minimum of 100 hours in TPAs; and (b) passed a licensure examination to practice optometry which included TPAs. The second requires an applicant to have: (a) completed a Board-approved course of a minimum of 100 hours in TPAs; and (b) passed an examination on TPAs prepared and administered by a qualified and approved professional testing organization.

The Board estimates that approximately 1,000 currently licensed optometrists will seek certification in TPAs. In processing the applications, the Board staff spends approximately 30 minutes on each application. The applications are reviewed for completeness, education and examination scores are verified, optometric licensure is verified and applicants are requested to provide missing information. If the application is acceptable, it is processed through the computer and certification is issued to the applicant. Ineligible applicants are notified that certification has been denied. The proposed fee of \$25 is a combination of these processing costs and a portion of the Board's administrative overhead.

Public notice of intention to amend the Board's regulations under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL), has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because the newly enacted provisions of the act require the Board to certify eligible persons immediately and the fee provisions of the act require the Board to recoup its expenses related to the certification process. Persons affected by the amendment, however, have been given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL.

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Statutory Authority

This amendment is proposed under sections 4.1 and 9(c) of the act (63 P. S. §§ 244.1 and 244.9(c)).

Fiscal Impact and Paperwork Requirements

The amendment will have no fiscal impact on the Commonwealth or its political subdivisions. Applicants for certification in TPAs will be required to pay a fee to cover the costs of certification.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on April 4, 1997, a copy of the amendment was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the

amendment was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5(c) of the Regulatory Review Act, the amendment was approved by the Senate Committee on April 15, 1997, approved by the House Committee on April 23, 1997, and approved by IRRC on May 1, 1997.

Additional Information

Individuals who desire information are invited to submit inquiries to Deb Smith, Board Administrator, State Board of Optometry, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783- 7134.

Findings

The Board finds that:

(1) Public notice of intention to amend its regulation as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(3) of the CDL because the Board has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL are, in this circumstance, unnecessary, because the newly enacted provisions of section 4.1 of the act require the Board to immediately certify eligible optometrists in the prescription and administration of TPAs. Without this regulation, the Board will not be able to fulfill this obligation as well as its mandate to match revenues to expenditures.

(2) Persons affected by the amendment as adopted by this order have been given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulation of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 23, are amended by amending § 23.91 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

ROBERT A. GINSBURG, O.D.,
Chairperson

(Editor's Note: For the text of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 2490 (May 17, 1997).)

Fiscal Note: 16A-524. 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 23. STATE BOARD OF OPTOMETRY FEES

§ 23.91. Fees.

The following is the schedule of fees for services charged by the Board:

License application	\$25
Certified copy of license for each additional practice location	\$15
Certification of scores or licensure, or both	\$15
Verification of licensure	\$10
Biennial renewal—optometrist license	\$135
Biennial renewal—certified copy of license for each additional practice location	\$20
Application for certification to prescribe and administer pharmaceutical agents for therapeutic purposes	\$25

[Pa.B. Doc. No. 97-824. Filed for public inspection May 23, 1997, 9:00 a.m.]

**STATE BOARD OF PHARMACY
[49 PA. CODE CH. 27]
Examination Fees**

The State Board of Pharmacy (Board) amends §§ 27.21, 27.23—27.25 and 27.91 pertaining to fees for examinations for licensure to read as set forth in Annex A.

Under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and sections 3, 6(k) and 8.2 of the Pharmacy Act (act) (63 P. S. §§ 390-3, 390-6(k) and 390-8.2), examinations for licensure must be prepared and administered by a professional testing organization under contract to the Board. The Board utilizes the examinations of the National Association of Boards of Pharmacy (NABP). The NABP consists of the licensing boards of all 50 states, the District of Columbia and United States territories and possessions. The NABP has developed a computer-based adaptive examination to replace the written (pencil and paper) examination known as the North American Pharmacist Licensure Examination (NABPLEX). Beginning in March 1997, the NABP will offer in computerized format the NAPLEX as the National uniform examination for licensure. The examination will be offered at numerous intervals in March, June, July and October of each year at a network of computer-based test centers by a professional testing organization under contract with the NABP. Candidates eligible to take the examination under §§ 27.21—27.25 may schedule testing periods at available test centers during the intervals established.

The amendments reflect the replacement of the pencil-and-paper NABPLEX with the computer-delivered NAPLEX. The amendments to § 27.91 (relating to schedule of fees) establish reduced examination fees and reflect changes in examination nomenclature. The fees will be the actual charges of the NABP to schedule a candidate

to take the examination. The reduced fees are the result of prior development costs having been spread over all licensing jurisdictions, all of which embraced the computer test model.

Section 27.21 (relating to application for examination and licensure) is amended to reflect changes in examination nomenclature and application procedures. Section 27.23 (relating to time and place for holding examinations) is amended to clarify that times and locations for the examination will be established by the Board in conjunction with the NABP. Section 27.24 (relating to examinations and passing scores) is amended to provide transition language, delete outdated examination provisions and clarify minimum passing scores. Also contemplated in this section is the eventual replacement, anticipated in late 1998, of the Federal Drug Law Examination (FDLE) with a computer-adaptive multistate pharmacy jurisprudence examination. Section 27.25 (relating to failure to appear for examination) deletes inaccurate language.

Public notice of intention to amend the regulations under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL), has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination. Persons affected by the amendments, however, have been given actual notice of the Board's intention to amend the regulations in advance of final rulemaking under section 204(2) of the CDL.

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulations address a compelling public interest as described in this Preamble and otherwise comply with Executive Order 1996-1.

Statutory Authority

These amendments are adopted under section 812.1 of The Administrative Code of 1929 and sections 3, 6(k) and 8.2 of the act.

Fiscal Impact and Paperwork Requirements

The amendments will have no fiscal impact on the Commonwealth or its political subdivisions. Candidates for licensure by examination will be required to pay a reduced fee to cover contract costs for the required examinations.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on April 4, 1997, a copy of the amendments was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the amendments were submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-5).

Under section 5(c) of the Regulatory Review Act, the amendments were approved by the Senate Consumer Affairs and Professional Licensure Committee on April

15, 1997, approved by the House Professional Licensure Committee on April 23, 1997, and approved by IRRC on May 1, 1997.

Additional Information

Individuals who desire information are invited to submit inquiries to W. Richard Marshman, R.Ph., Executive Secretary, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649. The telephone number of the Board is (717) 783-7157.

Findings

The Board finds that:

(1) Public notice of intention to amend the regulations as adopted by this order under the procedures specified in sections 201 and 202 of the CDL, has been omitted under the authority contained in section 204(3) of the CDL, because the Board has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL are in this circumstance, unnecessary, because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the costs of examinations.

(2) Persons affected by the amendments adopted by this order have been given actual notice of the Board's intention to amend the regulations in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of the Board's authorizing statute.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending §§ 27.21, 27.23—27.25 and 27.91 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

PAULA L. CASTOR, R.Ph.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 2490 (May 17, 1997).)

Fiscal Note: 16A-545. 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 27. STATE BOARD OF PHARMACY PHARMACISTS

§ 27.21. Application for examination and licensure.

(a) A candidate for licensure to practice pharmacy by examination applying to take the North American Pharmacist Licensure Examination (NAPLEX) and the Federal Drug Law Examination (FDLE), or its successor, shall obtain an application for licensure from the Board, complete the application, and file the application with the Board at least 45 days before the examination.

(b) The applicant shall include in the application proof of graduation with a B.S. or advanced degree in pharmacy granted by an ACPE accredited school or college; affidavits of all internship experience gained prior to submitting the application; and the application fee.

(c) The applicant shall also complete and submit to the Board with the completed application the examination fees and examination registration and scheduling forms as provided by the test administrator.

(d) Affidavits of internship experience gained after the filing of the application shall be filed before the examination date.

§ 27.23. Time and place for holding examination.

Examinations shall be held at times and determined by the Board in conjunction with the test administrator.

§ 27.24. Examinations and passing scores.

(a) On or before February 28, 1997, candidates for licensure by examination are required to pass both the National Association of Boards of Pharmacy Licensure Examination (NABPLEX) and the Federal Drug Law Examination (FDLE), which shall be administered in January, June and September of each year.

(b) On or before February 28, 1997, the minimum passing grade for the NAPLEX is 75.

(c) On or before February 28, 1997, the minimum passing grade for the FDLE is 75.

(d) On and after March 1, 1997, candidates for licensure by examination are required to pass both the North American Pharmacist Licensure Examination (NAPLEX) and the Federal Drug Law Examination (FDLE), or its successor, developed and administered by the National Association of Boards of Pharmacy (NABP).

(e) On and after March 1, 1997, the minimum passing score on each examination will be as determined by NABP.

§ 27.25. Failure to appear for examination.

The fee paid for investigation and examination of an application for licensure as a pharmacist may not be refunded if the applicant fails to qualify for examination or, if, without good cause as determined by the Board, the applicant fails to appear for examination. In this event, a new application shall be filed and a new application fee paid before the applicant shall be eligible for examination.

FEEES

§ 27.91. Schedule of fees.

An applicant for license, certificate, permit or service shall pay the following fees at the time of application:

- Application for pharmacy intern certificate \$35
 - Application for pharmacist license \$25
- Effective with the March 1997 examinations:

- North American Pharmacist Licensure Examination (NAPLEX) \$250

Federal Drug Law Examination (FDLE), or its successor..... \$75
 Certification of examination scores or internship hours \$15
 Certification of current licensure..... \$10
 Assistant pharmacist biennial renewal..... \$120
 Registered pharmacist biennial renewal..... \$120
 Registered pharmacist late renewal penalty \$25
 New pharmacy permit application \$145
 Reinspection of new pharmacy after failure at first inspection..... \$45
 Pharmacy permit change without inspection..... \$15
 Pharmacy permit change when inspection required \$50
 Change in pharmacy ownership or Board of Directors \$15
 Certification of valid permit \$10
 Biennial renewal of pharmacy permit \$75
 Pharmacy permit late renewal penalty..... \$25

[Pa.B. Doc. No. 97-825. Filed for public inspection May 23, 1997, 9:00 a.m.]

STATE BOARD OF DENTISTRY
[49 PA. CODE CH. 33]
Fictitious Names

The State Board of Dentistry (Board) amends §§ 33.3 and 33.202 (relating to fees; and fictitious names), to read as set forth in Annex A. The object of these amendments is to repeal provisions in the Board's regulations affected by the act of July 2, 1996 (P. L. 657, No. 113) (Act 113).

On September 10, 1996, the Dental Law (act) (63 P. S. §§ 120—130h) was amended by Act 113 to remove the Board's authority to approve fictitious names. Under section 3(g.1) of the act (63 P. S. § 122(g.1)), the Board is required to receive and record fictitious name filings without making determinations or judgments as to the appropriateness of the names. Since the amendment of the act, the Board has ceased approving names, and merely registers them, however, this procedure is inconsistent with § 33.202(b)—(d) (relating to fictitious names).

Accordingly, in this amendment, the Board removes the approval requirement in subsections (b)—(d) and changes the name of the application from "dental facility application" to "fictitious name registration" in § 33.3 (relating to fees) and § 33.202(b).

Public notice of intention to amend the Board's regulations under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because the newly enacted provisions of the act repeal the approval provisions in the Board's regulations. Persons affected by these amendments have been given notice of the Board's intention to amend the regulations in advance of final rulemaking under section 204(2) of the CDL (45 P. S. § 1204(2)).

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered the purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulations address a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Statutory Authority

These amendments are adopted under section 3(g.1) of the act (63 P. S. § 122(g.1)).

Fiscal Impact and Paperwork Requirements

The amendments will have no fiscal impact on the Commonwealth or its political subdivisions. The Board has requested an analysis by the Bureau of Professional and Occupational Affairs' Revenue Office of the costs associated with the registration of fictitious names to determine if the fee may be reduced. Until that analysis is completed, the fee remains unchanged.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on April 4, 1997, a copy of the regulations was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the amendments were submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§732-101—732-506).

Under section 5(c) of the Regulatory Review Act, the amendments were approved by the Senate Committee on April 15, 1997, approved by the House Committee on April 23, 1997, and approved by IRRC on May 1, 1997.

Additional Information

Individuals who desire information are invited to submit inquiries to June L. Barner, Board Administrator, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7162.

Findings

The Board finds that:

(1) Public notice of intention to amend its regulations as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(3) of the CDL, because the Board has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL, are, in this circumstance, unnecessary because the newly enacted provision in section 3(g.1) of the act repeals the approval of fictitious name provisions in the regulations. Without these amendments, § 33.202 would conflict with section 3(g.1) of the act.

(2) Persons affected by the regulations as adopted by this order have been given actual notice of the Board's intention to amend the regulations in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 33, are amended by amending §§ 33.3 and 33.202 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

(Editor's Note: A proposal to amend § 33.3, amended in this document, remains outstanding 27 Pa.B. 1577 (March 29, 1997).)

EDWIN F. WEAVER, D.D.S.,
Chairperson

(Editor's Note: For the text of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 2490 (May 17, 1997).)

Fiscal Note: 16A-466. 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 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.3. Fees.

Following is the schedule of fees charged by the Board:

License application fee—dentists and dental hygienists	\$15
Criteria approval application fee—dentists and dental hygienists	\$35
Fictitious name registration fee	\$35
Verification of licensure fee—dentists and dental hygienists	\$10
Certification of licensure fee—dentists and dental hygienists	\$15
Biennial renewal fee—dentists	\$100
Biennial renewal fee—dental hygienists	\$40
Biennial renewal fee—unrestricted or restricted anesthesia permit	\$25

Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE

§ 33.202. Fictitious names.

(a) Dentists may use a fictitious name that is not false, misleading or deceptive.

(b) Dentists who wish to practice under a fictitious name shall submit to the Board a fictitious name registration and the fee specified in § 33.3 (relating to fees). The dentist who submits the registration shall be associated with the facility and shall assume responsibility for compliance with this section. The owner of the facility, if different from the applicant, shall be identified on the registration.

(c) Changes in the ownership of a dental facility, changes in the designation of the responsible dentist,

changes in the scope of practice or changes in professional staffing, shall be reported in writing within 10 days.

(d) Advertisements in any medium shall include the name, as it appears on the current biennial renewal certificate, and the degree—D.D.S. or D.M.D.—of at least one licensed dentist who is associated with the dental facility. The lettering for the name of the dentist shall be at least equal in size to the lettering used for the fictitious name. The dentist referred to in this subsection and the dentist who registered to use the name under subsection (b) shall be jointly responsible for the advertisement.

(e) A directory listing the names of the dentists practicing at that location shall be prominently displayed in the entrance or reception area of the dental facility.

(f) The names of dentists who have practiced under the fictitious name shall be maintained in the records of the dental facility for at least 5 years following their departure from the practice.

(g) The use of the name of a dentist no longer actively associated with the practice may be continued for up to 1 year.

(h) Dentists who are specialists under § 33.203(d)(1) (relating to advertising) may incorporate their area of specialization in their fictitious name. A specialist in one area may include another recognized specialty area, or a nonspecialty area, in a fictitious name (examples: a specialist in orthodontics using Central Orthodontics and Pediatric Dentistry or a specialist in periodontics using Central Periodontics and Cosmetic Dentistry) only if the specialist conspicuously discloses, in every medium in which the name is used, that specialty status does not extend to the other specialty or nonspecialty area.

(i) Dentists who are not specialists under § 33.203(d)(1) may incorporate any area of dentistry in their fictitious name, including the recognized specialties, only if the name, in every medium in which it is used, is accompanied by the conspicuous disclosure that services are provided by a general dentist.

(j) A fictitious name may not include the word "clinic" unless the name designates a public or quasipublic facility as defined in § 33.1 (relating to definitions).

(k) A fictitious name may not include the word "institute" unless the name designates an educational or research facility.

(l) A fictitious name may not, by the use of plurals or otherwise, misrepresent the number of dentists practicing at a facility or the number of dentists at the facility who are specialists under § 33.203(d)(1).

[Pa.B. Doc. No. 97-826. Filed for public inspection May 23, 1997, 9:00 a.m.]

STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

[49 PA. CODE CH 37]

Fees

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) amends § 37.17 (relating to schedule of fees) pertaining to fees for the fundamentals of geology and the principles/practice of geology examinations for licensure of geologists as set forth in Annex A.

Under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and section 4(d) of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P. S. § 151(d)), examinations for licensure must be prepared and administered by a professional testing organization under contract to the Board. The Board has contracted with the National Association of State Boards of Geology which will administer the licensure examination to Pennsylvania applicants in April and October.

At the time the regulation was adopted, the contract price was \$175 for each of the geology examinations. This contract has been renegotiated to decrease each examination by \$25. Section 37.17 is being amended accordingly. Applicants for the April examination have been notified of the reduced fee and have only been charged \$150 for each examination.

Public notice of intention to amend § 37.17 under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examinations. Persons affected by this amendment have been given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL.

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Statutory Authority

This amendment is adopted under section 812.1 of The Administrative Code of 1929 and sections 4(d) and 9(a) of the act (63 P. S. §§ 151(d) and 156(a)).

Fiscal Impact and Paperwork Requirements

The amendment will have no fiscal impact on the Commonwealth or its political subdivisions. The amendment will have a beneficial fiscal impact upon members of the public inasmuch as candidates for licensure by examination will be required to pay \$25 less for the cost of the examinations. There are no additional paperwork requirements.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on April 4, 1997, a copy of the amendment was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the amendment was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-526).

Under section 5(c) of the Regulatory Review Act, the amendment was approved by the Senate Consumer Affairs and Professional Licensure Committee on April 15, 1997, approved by the House Professional Licensure Committee on April 23, 1997, and approved by IRRC on May 1, 1997.

Additional Information

Individuals who desire information are invited to submit inquiries to Shirley S. Klinger, Board Administrator, State Registration Board for Professional Engineers, Land Surveyors and Geologists, Post Office Box 2649, Harrisburg, PA 17105-2649 (717) 783-7049.

Findings

The Board finds that:

(1) Public notice of intention to amend its regulation as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(3) of the CDL because the Board has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL are, in this circumstance, unnecessary because section 812.1 of The Administrative Code of 1929 requires that a professional testing organization prepare and administer the geology examinations and that the costs of those examinations be passed on to the candidates.

(2) Persons affected by the regulation as adopted by this order have been or will be given actual notice of the Board's intention to amend the regulations in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 37, are amended by amending § 37.17 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

JOHN M. BRINJAC, PE, PLS,
President

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 2490 (May 17, 1997).)

Fiscal Note: 16A-474. 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 37. STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

FEES

§ 37.17. Schedule of fees.

(a) *Professional engineers and professional land surveyors.* The Board will charge the following fees:

Examination for licensure as a professional engineer	\$105
Reexamination for licensure as a professional engineer	\$105
Professional Engineer Exam Review (Optional)	\$75
Examination for licensure as a professional land surveyor	\$187
Reexamination for licensure as professional land surveyor:	
Pennsylvania Fundamentals of Land Surveying Portion	\$42
N.C.E.E.S. Fundamentals of Land Surveying Portion	\$40
N.C.E.E.S. Principles and Practice of Land Surveying	\$60
Administration (to be added to total parts taken at one sitting)	\$45
Examination for certification as engineer-in-training	\$75
(b) <i>Professional geologists.</i> The Board will charge the following fees:	
Application for registration	\$50
Biennial renewal fee	\$25
Temporary permit fee	\$25
Fundamentals of Geology Examination	\$150
Principles/Practice of Geology Examination	\$150
Examination access fee (to be added to each examination taken)	\$25
Administration (to be added total parts taken at one sitting)	\$45

[Pa.B. Doc. No. 97-827. Filed for public inspection May 23, 1997, 9:00 a.m.]

Title 58—RECREATION

**GAME COMMISSION
[58 PA. CODE CH. 147]**

Taxidermy

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its April 15, 1997, meeting, adopted the following changes:

Amending Chapter 147, Subchapter G (relating to taxidermy) to conform with the changes to 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

The amendment is adopted under the authority of the code.

Amendment to Chapter 147, Subchapter G

1. *Introduction*

The act of December 19, 1996 (P. L. 1442, No. 184) (Act 184) amended section 2926 of the code (relating to taxidermy permits) to provide that taxidermy permits could be issued in three specific areas. This change in the law requires changes to Subchapter G to the extent it involves examination procedures. As a result, the Commission at its meeting held on January 14, 1997, proposed and at its meeting held on April 15, 1997, finally adopted an amendment changing Subchapter G. On final adoption and based on Legislative guidance, the Commission decided to regard the general taxidermy permit as a separate category for purposes of implementing Act 184. The proposal was made under the authority contained in section 2901(b) of the code (relating to regulations for permits).

2. *Purpose and Authority*

A change in the code authorizing the issuance of taxidermy permits in three additional specific areas requires the modification of taxidermy permit examination procedures. The proposed changes provide for restricted taxidermy permits and specify numbers and types of specimens to be submitted for the examination as required by the statute.

Section 2901(b) of the code authorizes the Commission to promulgate regulations for the issuance of any permit and to control the activities which may be performed under the authority thereof. The proposed changes will be adopted under this authority.

3. *Regulatory Requirements*

Act 184 requires that as part of the taxidermy examination, an individual must present five specimens from each group for which he is seeking a permit. The proposed changes specify what types of specimens must be submitted for the general category and each of the restricted categories.

4. *Persons Affected*

Individuals wishing to be issued a restricted taxidermy permit by the Commission will be affected by the proposed changes.

5. *Comment and Response Summary*

Comments were received with regard to the original proposal that the requirement of 15 specimens for the general permit was excessive and not intended by the Legislature. In light of these comments, the Commission decided to regard the general permit as a separate category for specimen purposes.

6. *Cost and Paperwork Requirements*

Act 184 requires submission of five specimens in each area. Individuals wishing to be tested in a specific area will incur additional examination fees and will need to submit additional samples. There will be additional cost to the Commission by having to examine additional specimens. The amount of this cost is uncertain and will depend on the number of applicants and the number of those seeking restricted permits.

7. *Effective Date*

These amendments will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

8. *Contact Person*

For further information on the amendments the contact person is James R. Fagan, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under its authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending §§ 147.122 and 147.129 to read as set forth at 27 Pa.B. 1161 (March 8, 1997) and by amending §§ 147.121 and 147.123 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall submit this order, 27 Pa.B. 1161 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final publication in the *Pennsylvania Bulletin*.

DONALD C. MADL,
Executive Director

Fiscal Note: Fiscal Note 48-97 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter G. TAXIDERMY

§ 147.121. Definitions.

In addition to the definitions in the act and § 131.2 (relating to definitions), the following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Apprentice—A person the taxidermist is teaching and is listed on the permit.

General taxidermy permit—A permit issued to a person to engage in the activities described in section 2926(b) of the act (relating to taxidermy permits).

Legitimate employe—An employe of record, one of which the employer deducts or pays, or both, taxes or other fees required by any local, State or the Federal government and is listed on the permit.

Mount—Prepare, preserve, arrange, set up or pose game, wildlife, fish or reptiles or any portion or part thereof in a life-like position or some other form of display.

Protected specimen—Any wildlife that is not a game bird, game animal or furbearer and is described in §§ 133.1 and 133.2 (relating to protected mammals; and protected birds).

Restricted taxidermy permit—A permit issued to a person to engage in taxidermy in one of the following specific categories only:

- (i) Big and small game, excluding wild turkey.
- (ii) Fish.
- (iii) Game birds, including wild turkey.

Specimen—A sample, a part of a whole, something that obviously belongs to a particular category but is noticed by reason of an individual distinguishing characteristic; a representative piece, antler, horn, skull, bone, feet, feathers, hide, fur, pelt, skin or an individual carcass or part thereof exemplifying a whole.

Taxidermy shop—An established business address listed on the permit where taxidermy is to be performed.

Unclaimed specimen—A specimen or completed mount that has not been picked up by the client after being notified according to the procedures in § 147.126 (relating to unclaimed specimen procedure).

§ 147.123. Taxidermy examination.

(a) General taxidermy permit applicants shall present five specimens that have been mounted by the applicant within the last 3 years. The required specimens shall be: One antlered whitetail deer head, one small mammal, one upland game bird, one duck or other waterfowl and one fish. All birds shall be mounted with the feet and legs visible. All specimens shall be found in the wild within this Commonwealth.

(b) Restricted taxidermy permit applicants shall present five specimens that have been mounted by the applicant within the last 3 years in the category they are attempting to secure a permit. Big and small game applicants shall present one antlered whitetail deer head, one other big game specimen, two small game specimens and one furbearer specimen. Fish applicants shall present five different fish specimens, game bird applicants shall present one wild turkey, two upland game birds and two waterfowl specimens. All birds and waterfowl shall be mounted with the feet and legs visible. All specimens must be found in the wild within this Commonwealth.

(c) The examination shall consist of three parts.

(1) The following will be the criteria used to judge each specimen presented for examination:

(i) Lifelike and realistic in appearance. This will include proportion, muscle structure, setting of the eyes and antlers, proper placement of ears, wings, feet and legs, workmanship around the lips and nose and durability of work.

(ii) Sewing. Seams may not show and shall be completely closed. Patching of skin shall be of the same color and texture.

(iii) Whitetailed deer head (antlered)—ears. Paper or plastic liners or other media should be used in the ears. Ears shall be tight with no drumming or bridging.

(iv) Restoration of color. Color used shall give a natural appearance. Over-painting and over-waxing are not acceptable.

(v) Preservation. Any part subject to deterioration shall be adequately preserved. The specimens, especially fish, will be checked for objectionable odors.

(vi) Cleanliness of specimen. Evidence of grease, dirt, borax, sawdust, and the like, on a specimen is not acceptable.

(vii) Support strength. Wires or rods used for support in legs, necks, wings, and the like, shall be of sufficient strength for their intended use and may not be visible.

(viii) Novelty mounts will not be accepted.

(2) The second part of the examination will be a written test on general taxidermy methods, applicable law and regulations pertaining to taxidermy. The applicant shall attain a minimum score of 70%.

(3) The third part of the examination will require the applicant to perform a practical taxidermy process on a selected specimen that is acceptable to the Taxidermy Examination Board.

(d) A satisfactory score shall be attained on all parts of the examination to be eligible for a taxidermy permit.

(e) A sworn affidavit shall be submitted by the applicant attesting that the specimens were prepared and mounted by the applicant personally within the last 3 years. Submission of a false or fraudulent affidavit will result in immediate disqualification from the examination process and subject the applicant to violation of section 906 of the act (relating to false or fraudulent statements on reports, etc.). In addition thereto, the applicant will be denied future application and examination for 2 years.

[Pa.B. Doc. No. 97-828. Filed for public inspection May 23, 1997, 9:00 a.m.]