

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 403]

### Notice of Intent to Promulgate Regulations and Request for Public Participation

The Department of Transportation (Department), Bureau of Maintenance and Operations, under the authority contained in sections 6103 and 8302 of the Vehicle Code as amended (75 Pa.C.S. §§ 6103 and 8302), and consistent with the goals of Executive Order 1996-1, Regulatory Review and Promulgation, announces its intention to amend Title 67 of Department Regulations by amending Chapter 403, Hazardous Material Transportation.

The purpose of this rulemaking is to incorporate recently revised provisions of the Federal Hazardous Materials regulations and to remove the requirement for annual registration of transporters of hazardous materials.

The Department anticipates that this rulemaking will affect all transporters of hazardous materials of a type or quantity which require hazardous materials placarding as well as State and local police and enforcement personnel who are trained and certified in the enforcement of these regulations.

Accordingly, the Department is requesting that within 30 days of the publication of this notice in the *Pennsylvania Bulletin*, all interested persons desiring to participate in the development of this rulemaking or that have questions, suggestions, or comments should contact Daniel R. Smyser, P.E., Chief, Motor Carrier Division, 555 Walnut Street—7th Floor, Harrisburg, PA 17101-1900 (717) 787-7445.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-1079. Filed for public inspection July 3, 1997, 9:00 a.m.]

## INSURANCE DEPARTMENT

[31 PA. CODE CHS. 1, 5, 7 AND 9]

### Uniform Classification of Expenses

The Insurance Department (Department) proposes to amend Part I, Subpart A (relating to uniform classification of expenses) by deleting the following chapters: Chapters 1, 5, 7 and 9 (relating to operating expense classifications; composition of and allocation to expense groups; allocation to lines of business; and special instructions for the allocation of salaries and other expenses). The proposed amendments are set forth in Annex A. This rulemaking is published as a proposed rulemaking under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412); the act of May 9, 1949 (P.L. 1025, No. 298) (act) (40 P.S. §§ 1261—1264); and section 320 of The Insurance Company Law of 1921 (40 P.S. § 443). The regulations apply to property and casualty insurers, the State Workmen's Insurance Fund and title insurers. The regulations

prescribe accounting rules for allocating and classifying certain types of expenses in financial statements.

#### *Purpose*

The purpose of this rulemaking is to delete Chapters 1, 5, 7 and 9 to eliminate obsolete, unnecessary regulations. The regulations were initially adopted October 21, 1949, and last amended July 7, 1970, under the authority of the act. Specifically, sections 1 and 2 of the act (40 P.S. §§ 1261 and 1262) require property and casualty insurers, the State Workmen's Insurance Fund and title insurers to maintain uniform classifications of accounts and records as may be prescribed by the Insurance Commissioner and, in addition, to file reports in a form determined by the Insurance Commissioner. The regulations were adopted to prescribe uniform accounting rules for the classification of specific expenses.

Section 320(a) of The Insurance Company Law of 1921 requires insurers to file annual financial statements and, as amended by the act of December 18, 1992 (P.L. 792, No. 176) states, in pertinent part:

(a)(1) Every stock and mutual insurance company, association, and exchange, doing business in this Commonwealth, shall annually, on or before the first day of March, file in the office of the Insurance Commissioner and with the National Association of Insurance Commissioners a statement which shall exhibit its financial condition on the thirty-first day of December of the previous year . . . The Insurance Commissioner shall require each insurance company, association and exchange to report its financial condition on the statement convention blanks, in such form as adopted by the National Association of Insurance Commissioners . . . and may make such changes, from time to time, in the form of the same as shall seem best adapted to elicit from them a true exhibit of their financial condition.

(2) Unless otherwise provided by law, regulation or order of the Insurance Commissioner, each insurance company, association and exchange shall adhere to the annual or quarterly statement instructions and the accounting practices and procedures manuals prescribed by the National Association of Insurance Commissioners . . .

Under the authority of the act and section 320 of The Insurance Company Law of 1921, the Insurance Commissioner has determined that the form, instructions and manuals prescribed by the National Association of Insurance Commissioners (NAIC) sufficiently address the classification of the types of expenses covered in the regulations. Therefore, the Commissioner currently requires the insurers subject to the regulations, including the State Workmen's Insurance Fund, to adhere to the NAIC form, instructions and manuals for the classification and reporting of those expenses. The regulations in no manner enhance the NAIC instructions and manuals. Therefore, the regulations are outdated and redundant and are no longer needed.

#### *Affected Parties*

The deletion of the regulations affects property and casualty insurers, the State Workmen's Insurance Fund and title insurers.

#### *Fiscal Impact*

The current cost of the NAIC manual that includes the rules for classifying expenses is \$100. Because the af-

ected insurers are currently required to adhere to the NAIC instructions and manuals, the deletion of the regulations should have minimal fiscal impact.

#### *Paperwork*

The deletion of the regulations would impose no additional paperwork requirements on the Department or insurers.

#### *Effectiveness/Sunset Date*

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. Because the rulemaking proposes to delete obsolete, redundant regulations, no sunset date has been assigned.

#### *Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Stephen Johnson, Director, Bureau of Examinations, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 783-2142, within 30 days of its publication in the *Pennsylvania Bulletin*.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 3, 1997, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to submitting the rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1. A copy of the material is available to the public upon request.

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

GREGORY S. MARTINO,  
*Acting Insurance Commissioner*

**Fiscal Note:** 11-152. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 31. INSURANCE**

#### **PART I. GENERAL PROVISIONS**

#### **Subpart A. UNIFORM CLASSIFICATION OF EXPENSES**

#### **CHAPTER 1. (Reserved)**

*(Editor's Note: As part of this proposal, the Department is proposing to rescind §§ 1.1—1.4, 1.11—1.14, 1.21—1.26, 1.31—1.34, 1.41, 1.42 and 1.51—1.67 which appear at 31 Pa. Code pages 1-7—1-30, serial numbers (223455), (223456) and (203327)—(203350).)*

#### **CHAPTER 5. (Reserved)**

*(Editor's Note: As part of this proposal, the Department is proposing to rescind §§ 5.1—5.5, 5.11—5.15, 5.21, 5.22 and 5.31—5.37 which appear at 31 Pa. Code pages 5-1—5-8, serial numbers (203353)—(203360).)*

#### **CHAPTER 7. (Reserved)**

*(Editor's Note: As part of this proposal, the Department is proposing to rescind §§ 7.1—7.4, 7.11 and 7.12 which appear at 31 Pa. Code pages 7-1—7-5, serial numbers (203361)—(203365).)*

### **CHAPTER 9. (Reserved)**

*(Editor's Note: As part of this proposal, the Department is proposing to rescind §§ 9.1, 9.2, 9.11—9.20, 9.31, 9.32 and 9.41—9.48 which appear at 31 Pa. Code pages 9-1—9-16, serial pages (203367)—(203382).)*

[Pa.B. Doc. No. 97-1080. Filed for public inspection July 3, 1997, 9:00 a.m.]

## **STATE BOARD OF CHIROPRACTIC**

### **[49 PA. CODE CH. 5]**

#### **Volunteer License**

The State Board of Chiropractic (Board) proposes to amend Chapter 5, by amending § 5.11a (relating to types of licensure and certification offered by the Board) and by adding § 5.20 (relating to volunteer license), to read as set forth in Annex A.

#### *A. Effective Date*

The proposed amendments will be effective upon publication of final-form regulations in the *Pennsylvania Bulletin*.

#### *B. Statutory Authority*

The Board is required to promulgate regulations governing the volunteer license category by section 5 of the Volunteer Health Services Act (act) (35 P. S. § 449.5) which became effective February 3, 1997. Section 5 of the act mandates regulations governing: (1) qualifications for placing an active license on volunteer status; (2) criteria under which a retired licensee who has allowed a license to become inactive may obtain a volunteer license; and (3) procedures under which a volunteer license holder may return to active status. The Board is authorized to adopt regulations necessary to the administration of its enabling statute under sections 302 and 1104 of the Chiropractic Practice Act (63 P. S. §§ 625.302 and 625.1104).

#### *C. Background and Purpose*

The purpose of the proposal is to implement the act. The act is intended to increase the availability of primary health services by establishing a procedure for chiropractors and other health care practitioners who have retired from active practice to provide professional services as volunteers in approved clinics. Primary health services are defined in the act as including such services as regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing and health education.

An approved clinic is defined in the act as an organized community-based clinic which offers services to: (1) individuals and families who cannot pay for their care; (2) Medical Assistance clients; or (3) residents of medically underserved or health professionals shortage areas. Examples of these clinics include Federal or State qualified and approved health centers or nonprofit community-based clinics.

The act permits persons who have been issued a license by the State Boards of Medicine, Osteopathic Medicine, Dentistry, Podiatry, Nursing, Optometry and Chiropractic to practice a component of the healing arts to apply for volunteer status. A volunteer license will be issued to a

retired individual who documents to the satisfaction of the Board that the individual will practice without remuneration in approved clinics.

The act exempts holders of a volunteer license from biennial renewal fees and professional liability coverage mandated by the Health Care Services Malpractice Act (40 P. S. § 1301.701) or section 508(a) of the Chiropractic Practice Act (63 P. S. § 625.508(a)). However, volunteer licenses will be subject to biennial renewal conditioned upon completion of any continuing education which the Board requires for biennial renewal generally.

#### D. Description of Amendments

The volunteer license category would be added to § 5.11a. New § 5.20 would provide the statutory references to the act, as well as the statutory basis for the volunteer license category. The Board has interpreted the act as permitting a volunteer license holder to practice exclusively in an organized community-based clinic without remuneration.

Under section 3 of the act, an active licensee shall possess a current, active, unrestricted license to qualify for a volunteer license. Section 4 of the act permits a licensee to apply who retired with a license in good standing. The Board has interpreted this qualification to mean a license which at the time of the application is not subject to an outstanding disciplinary action such as revocation or suspension. Accordingly, the Board uses the term "unrestricted license" as a qualification for the issuance of a volunteer license in § 5.20(b)(2). The criteria for obtaining a volunteer license are in new subsection (b). Both active licensees and retired chiropractors with inactive licenses may receive a volunteer license in order to practice as a volunteer without remuneration in an approved clinic. The act's definition of an "approved clinic" is included in subsection (b)(3).

Procedures to apply for a volunteer license are in § 5.20(c). Applicants would be requested to provide basic license information. In addition, the applicant would be requested to execute a verification that the applicant intends to practice exclusively within the scope of a volunteer license. Also, to provide proper enforcement of the limitation of the act, applicants will be required to file with the Board a letter of agreement from the clinic that the applicant will work in the clinic. Section 5.20(d) would make this notification a continuing obligation during the biennial period of the license.

Biennial renewal of the volunteer license would be provided for under § 5.20(e). Paragraph (2) would cross reference § 5.6 (relating to fees) pertaining to the renewal fee from which a volunteer license is exempt under the act.

Subsection (f) provides for return to active, remunerative practice by a volunteer by applying to the Board and meeting the general reactivation requirements.

Subsection (g) notifies the volunteer license holder that he continues to be subject to the disciplinary provisions of the Chiropractic Practice Act. In addition, subsection (g) proposes that a violation of the act or the regulations adopted thereunder may constitute independent grounds for discipline.

#### E. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1, in drafting and promulgating the amendments the Board solicited input and suggestions from the regulated community by providing drafts to organizations

and entities which represent the professionals and to nonprofit organizations who represent qualified providers of volunteer services.

#### F. Fiscal Impact and Paperwork Requirements

1. *Commonwealth*—The proposed amendments will create a new license for which no fee will be charged. As such, the expenses of the program will be borne as a part of the Board's overall operating expenses which are financed through biennial renewals of active licensees. Therefore, the administration and enforcement of a new license category may have a fiscal impact on overall Board costs. The net effect, however, is estimated to be minimal owing to the relatively small number of licensees who will seek a volunteer license compared with the number of active licensees. Additional paperwork will be incurred by the Board and the private sector to complete and file application forms.

2. *Political subdivisions*—There will be no adverse fiscal impact or paperwork requirements imposed.

3. *Private sector*—The proposed amendments will have a positive fiscal impact on individual licensees who restrict their professional activities to volunteer work since these individuals are exempt from maintaining professional liability insurance required under the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1004) and the biennial renewal fee for licensure. The proposed amendments should impose no additional fiscal or paperwork requirements.

#### G. Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

#### H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 24, 1997, the Board submitted a copy of these proposed amendments, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." 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 amendments, by the Board, the General Assembly and the Governor of objections raised.

#### I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Wade A Fluck, Board Counsel, State Board of Chiropractic, P. O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Reference No. 16A-439 (Volunteer License), when submitting comments.

MARY ANNE CRAWFORD, D.C.,  
Chairperson

**Fiscal Note:** 16A-439. 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 B. LICENSURE, CERTIFICATION, EXAMINATION AND REGISTRATION PROVISIONS

## § 5.11a. Types of licensure and certification offered by the Board.

The Board will offer the following types of licensure and certification to candidates who qualify under the act and this chapter:

\* \* \* \* \*

## (5) Volunteer license.

## § 5.20. Volunteer license.

(a) *Purpose and scope.* The following subsections implement the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic and without remuneration.

(b) *License.* A volunteer license may be issued to a licensee of the Board who meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.

(2) Retires from active practice in this Commonwealth in possession of an unrestricted license which was allowed to lapse by not renewing it. A retired licensee shall meet any requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal. As used in this section, an "unrestricted license" is a license which is not restricted or limited by order of the Board under its disciplinary power.

(3) Documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics. As used in this section, an "approved clinic" is an organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term may include a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

(c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice exclusively:

(i) Without personal remuneration for professional services.

(ii) In an organized community-based clinic offering primary health care services to one or more of the following:

(A) Individuals and families who cannot pay for their care.

(B) Medical Assistance clients.

(C) Residents of medically underserved areas or health professional shortage areas.

(2) A letter signed by the director or chief operating officer of the community-based clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the volunteer license holder shall notify the Board of any change in clinic or volunteer status within 30 days of the date of the change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from § 5.6 (relating to fees) pertaining to the biennial renewal fee and shall be exempt from section 508 of the Chiropractic Practice Act (63 P. S. § 625.508) with regard to the maintenance of liability insurance coverage under section 701 of the Health Care Services Malpractice Act (40 P. S. § 1301-701).

(f) *Return to active practice.* A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board in accordance with § 5.17 (relating to biennial registration; unregistered status and inactive status; failure to renew; address of record).

(g) *Disciplinary provisions.* A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) or this section may also constitute grounds for disciplinary action.

[Pa.B. Doc. No. 97-1081. Filed for public inspection July 3, 1997, 9:00 a.m.]