

PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 453]

Distribution of Highway Maintenance Funds

The Department of Transportation (Department), under the authority contained in 75 Pa.C.S. §§ 6103 and 9104 (relating to promulgation of rules and regulations by department; and standards and methodology for data collection), proposes to delete Chapter 453 (relating to distribution of highway maintenance funds) as set forth in Annex A.

Purpose of this Chapter

Chapter 453 describes the standards and methodology for data collection for application of the rules governing distribution of State highway maintenance funds in 75 Pa.C.S. Chapter 91 (relating to State highway maintenance), to provide a reasonable balance of highway quality and conditions among the counties.

Purpose of this Proposed Rulemaking

The purpose of this rulemaking is to delete Chapter 453. Chapter 453 is no longer needed because 75 Pa.C.S. § 9104 no longer requires the promulgation of standards and methodology for data collection in the form of regulations. Changes to the standards and methodology for data collection are to be published as a notice in the *Pennsylvania Bulletin*.

The Department will publish all changes to the standards and methodology for data collection in the *Pennsylvania Bulletin*. A notice will first be announced in the *Pennsylvania Bulletin* that a change to the standards and methodology of data collection is being considered. After a sufficient amount of time has passed for questions or comments concerning the proposed change, a notice of the changes to the standards and methodology for data collection will be published in the *Pennsylvania Bulletin*.

Persons and Entities Affected

This proposed rulemaking affects Department maintenance districts within this Commonwealth and the general motoring public which has occasion to use the State roadway network.

Fiscal Impact

This proposed rulemaking will not impose increased costs on private persons, State or local governments. This rulemaking will not occasion the development of additional reports or other paperwork requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 21, 1999, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Transportation. In addition to submitting this proposed 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, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to a portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review 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 Department, the General Assembly and the Governor of objections raised.

Sunset Date

The Department is not establishing a sunset date for these regulations since these regulations are being deleted.

Public Comments

Interested persons are invited to submit, within 30 days of publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions or objections regarding the proposed amendments to J. Michael Long, P.E., Section Chief, Roadway Management Division, Bureau of Maintenance and Operations, 555 Walnut Street, 7th Fl. Forum Place, Harrisburg, PA 17120.

Contact Person

The contact person is J. Michael Long, P.E., Section Chief, Roadway Management Division, Bureau of Maintenance and Operations, 555 Walnut Street, 7th Fl. Forum Place, Harrisburg, PA 17101, (717) 787-6899.

BRADLEY L. MALLORY,
Secretary

Fiscal Note: 18-352. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart B. VEHICLE CODE PROVISIONS

ARTICLE III. HIGHWAY

(Editor's Note: The Department is proposing to delete the current version of Chapter 453 as it appears in the Pennsylvania Code, pages 453-1—453-5 (serial pages (251085)—(251089).)

CHAPTER 453. (Reserved)

§§ 453.1—453.4. (Reserved).

[Pa.B. Doc. No. 99-1666. Filed for public inspection October 1, 1999, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 53]

[M-00991249F0007 and L-00990143]

Natural Gas Choice and Competition

The Pennsylvania Public Utility Commission (Commission) on August 12, 1999, adopted a proposed rulemaking implementing changes in requirements mandated in the Natural Gas Choice and Competition Act for natural gas distribution companies regarding recovery of natural gas

costs. The contact persons are Thomas P. Maher, Fixed Utility Services, (717) 787-5704, and Lawrence F. Barth, Law Bureau, (717) 772-8579.

Executive Summary

On June 22, 1999, Governor Thomas J. Ridge signed into law 66 Pa.C.S. §§ 2201—2211 (relating to the Natural Gas Choice and Competition Act) (act). Under 66 Pa.C.S. § 1307(f)(1)(II) (relating to sliding scale of rate adjustments) a natural gas distribution company may file a tariff to establish a mechanism by which its rates for natural gas sales may be adjusted on a regular basis but no more frequently than monthly. This monthly adjustment is to reflect actual or projected changes in natural gas costs currently reflected in rates. In the event that the natural gas distribution company adjusts rates more frequently than quarterly, it shall also offer retail gas customers a fixed rate option which recovers natural gas costs over a 12-month period.

The proposed regulation establishes parameters for the following: 1) the reconciliation mechanism and period; 2) the contract period and customer sign-up procedures; and 3) applicability to Chapter 56 (relating to standards and billing practices for residential utility service) regarding the Commission's standards and billing practices for residential utility service.

Through this proposed regulation, the Commission is seeking comments and reply comments from interested parties.

Public meeting held
August 12, 1999

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; David W. Rolka; Nora Mead Brownell; Aaron Wilson, Jr.

Proposed Rulemaking Order

By the Commission:

I. Introduction

On June 22, 1999, Governor Thomas J. Ridge signed into law the act. Under the act, retail customers will have the ability to choose their natural gas supplier.

Previously, most consumers bought natural gas supply requirements as a bundled product from their jurisdictional public utility. The cost of this natural gas supply typically included the cost of transporting the gas through the interstate pipeline system, storing the gas if necessary, delivering the gas and the cost of the gas itself. As each natural gas distribution company's service is restructured, all customers will have the ability to purchase gas from sources independent of their local distribution company.

With regard to service for customers who continue to purchase gas from their natural gas distribution company, the act provides that each company may file a tariff which would permit it to adjust its rates on a regular basis as frequently as once a month. See 66 Pa.C.S. § 1307(f)(1)(II). Prior to the act, utilities were limited to making these adjustments no more frequently than once every quarter. Regardless of how frequently a utility chooses to adjust its rate, recovery of its costs is subject to annual reconciliation. *Id.*

Should a natural gas distribution company choose to adjust its rates more frequently than quarterly, it must offer its retail customers a fixed rate option which recovers natural gas costs over a 12-month period which is subject to annual reconciliation. *Id.*

The act directs us to promulgate rules or regulations governing the adjustments discussed above as well as the fixed rate option. In that regard, we are today setting forth for comment the proposed regulations which shall apply to each natural gas distribution company offering a fixed rate option.

II. Discussion

A. General Information

We must note at the outset that the fixed rate option is not a novel concept in itself. The New York Public Service Commission (NY PSC) has been experimenting with just such an option and now has adopted it on a permanent basis. *In the Matter of the Commission's Request for Gas Distribution Companies to Reduce Gas Cost Volatility and Provide for Alternative Gas Purchasing Mechanisms*, Case 97-G-0600, Order (Issued August 31, 1998). The NY PSC directed utilities to offer customers a fixed price option after steep increases in the price of natural gas experienced during the winter of 1996-97. *In the Matter of the Commission's Request for Gas Distribution Companies to Reduce Gas Cost Volatility and Provide for Alternative Gas Purchasing Mechanisms*, Case 97-G-0600, Order (Issued June 5, 1997).

We will . . . require each LDC [local natural gas distribution company] to submit proposals for a fixed price option. . . . Our preference is for proposals that would fix all elements of cost (including commodity, capacity, and LDC margin). We anticipate that this would be coupled with an outreach and education program to be conducted by LDCs to inform the public of this new option.

Id. at 2. The NY PSC also directed its natural gas utilities to review their gas procurement practices and to consider using purchase options such as indices, cash market and financial transactions in an attempt to foster price stability. *Id.*

With respect to the fixed price options, the NY PSC let the customer decide whether the fixed price would be in effect for the heating season or longer, but in no event would the price remain fixed for more than 1 year. *In the Matter of the Commission's Request for Gas Distribution Companies to Reduce Gas Cost Volatility and Provide for Alternative Gas Purchasing Mechanisms*, Case 97-G-0600, Order Resolving Petitions for Rehearing and Requiring the Filing of Fixed Price Option Tariffs (Issued October 7, 1997) at 4. Consistent with this, the NY PSC limited contracts to no more than 1 year. *Id.* at 5.

Moreover, the NY PSC noted that the plans submitted by the natural gas utilities differed as to what was to be fixed:

some would fix only the commodity cost of the gas while other plans would fix that element as well as additional costs, such as pipeline demand and transportation costs.

Id. at 6. The NY PSC decided that each gas utility must, at a minimum fix the commodity cost of gas. Other elements of cost could also be fixed with subsequent reconciliation to account for variations in weather, pipeline rates and similar fluctuations.

The New York experience may be instructive to us, however, it need not dictate how we will require natural

gas distribution companies to provide a fixed rate option. As neighboring states with a mix of urban, suburban and rural regions New York and the Commonwealth have much in common. However, we must note that the NY PSC acted on its own initiative implementing fixed price plans in response to a specific problem—upward price spikes during the winter of 1996-97. On the other hand, the General Assembly has changed preexisting Commonwealth law to permit utilities to adjust supply costs on a more frequently than quarterly basis and to require companies making such adjustments to offer a fixed rate option to their customers. This is part of a pervasive change to the regulation of natural gas distribution companies in this Commonwealth.

Based, in part, on the New York experience, we seek comments on the following proposed regulation for natural gas distribution companies which wish to adjust their rates more frequently than quarterly and, therefore, are required to offer a fixed rate option to their customers.

B. Reconciliation Mechanism

There are several reconciliation methodologies which may be considered regarding sales made under the fixed rate option. These could include the following:

1) inclusion of these sales, on an annual 12 month basis, within the current 66 Pa.C.S. § 1307(f), reconciliation process with no separate recognition given to the fixed rate option sales, revenues or costs;

2) a separate reconciliation on an annual 12 month basis, of the fixed rate option sales, revenues and costs which is clearly severed from the section 1307(f) reconciliation, and is performed in the same fashion and using the same mechanism as the section 1307(f) reconciliation;

3) a separate reconciliation on a heating season basis, of the fixed rate option sales, revenues and costs which is clearly severed from the section 1307(f) reconciliation, and is performed in the same fashion and using the same mechanism as the section 1307(f) reconciliation. The nonheating season sales would then be adjusted on a monthly basis;

4) no reconciliation of the fixed rate option sales, gas revenues and gas costs, which have been severed from the section 1307(f) reconciliation mechanism. This would mean that there would be no recovery by the natural gas distribution company of net undercollections and no refund to customers of overcollections.

We are seeking specific comments on two reconciliation methodologies. A separate fixed rate option reconciliation calculation, consistent with the Company's current section 1307(f) reconciliation mechanism could be employed for sales revenues and gas costs, pursuant to the fixed rate option. This reconciliation would clearly sever all sales, revenues and gas costs from the section 1307(f) reconciliation, and thus would prevent any cross subsidization between section 1307(f) customers and fixed rate option customers.

Alternatively, no reconciliation of the fixed rate option sales, revenues and gas costs would be required. The fixed rate option sales and costs would not be reflected in the section 1307(f) reconciliation charges. This method would be consistent with a competitive market place and also with the current practice of competitive Electric Generation Suppliers in the electric industry regarding kilowatt-hour (Kwh) sales, revenues and production costs.

We are interested in receiving comments on whether the fixed rate option should be reconcilable or if it should be severed from the section 1307(f) process.

C. Fixed Rate Option Reconciliation Period

The reconciliation period for a fixed rate option could track one of several time frames. The reconciliation period could conceivably be a calendar year or the company's Section 1307(f) rate effective period. It could also be based upon the company's selected year end.

We are seeking comments on the implementation of the reconciliation period to be utilized and whether companies which must make annual filings under section 1307(f), offering a fixed rate option should mirror their current section 1307(f) time frame. In addition, we seek comments on whether companies with gross interstate annual operating revenues less than \$40 million and greater than \$6 million may employ their current gas cost rate (GCR) reconciliation period regarding a fixed rate option offering.

D. Fixed Rate Option Contract Period

The act provides for the recovery of natural gas costs over a 12-month period, subject to annual reconciliation. This recovery provision does not necessarily need to coincide with the contract period of the fixed rate option offering, which may be a calendar year, the company's section 1307(f) recovery year or some other 12-month term. Additionally, the contract period may be for a 12-month period with the fixed rate option effective only for the heating months, the non-heating months billings would be based upon a rate, adjusted monthly reflecting actual sales, revenues and gas costs.

We are seeking comments on a 12-month contract term which, however need not be a calendar year. We are also seeking comment on whether a 12-month term may provide the distribution companies with a manageable process regarding customer sign-up, gas supply procurement and billing options.

E. Customer Sign-up Period

The process of when and how customers may elect to sign up for participation in a fixed rate option offering needs to be established. We propose that customers eligible for the fixed rate option should be provided a 3 month window which ends on the first day of the contract period. This may be accomplished by each company providing notice to eligible customers along with each of the three billings preceding the commencement of the contract year. Each customer who is eligible for the fixed rate option program should be provided a clear and understandable method to request participation in the program. This application should include the following information at a minimum: 1) customer name; 2) account number; 3) address; 4) billing address if different; 5) a clear description of the fixed rate option program including what components of the bill will be fixed; 6) the price per unit; and 7) any other information deemed relevant to provide a clear understanding of the fixed rate option program offering.

F. Applicability of Chapter 56

Chapter 56 contains the Commission's Standards and Billing Practices for Residential Utility Service. It should be noted that all provisions of Chapter 56 will be applicable to customers receiving service under any fixed rate option program. Budget bill options required by § 56.12(7) will continue to be available to residential consumers.

Accordingly, under 66 Pa.C.S. §§ 501, 1301, 1307 and 1501, and the Commonwealth Documents Law (45 P. S. § 1201 et seq.), and the regulations promulgated there-

under at 1 Pa. Code §§ 7.1—7.4, we propose to amend our regulations by adding § 53.69, as noted above and as set forth in Annex A; Therefore,

It Is Ordered that:

1. The Secretary shall submit this order and Annex A to the Office of the Attorney General for preliminary review as to form and legality.

2. The Secretary shall submit a copy of this order, together with Annex A, to Governor's Budget Office for review of fiscal impact.

3. The Secretary shall submit this order and Annex A for review and comments by the designated standing committees of the General Assembly, and for review and comments by the Independent Regulatory Review Commission.

4. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

5. Within 30 days of the date of publication of this order in the *Pennsylvania Bulletin*, an original and 15 copies of any comments concerning this order shall be submitted to the Office of the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. One copy of a diskette containing comments in electronic format should also be submitted. One copy of each comment should also be submitted to the contact persons below.

6. The contact persons for this matter are Thomas P. Maher, Fixed Utility Services, (717) 787-5704, maher@puc.state.pa.us, and Lawrence F. Barth, Assistant Counsel, Law Bureau, (717) 772-8579, barth@puc.state.pa.us. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau (717) 772-4579.

7. A copy of this order and Annex A be sent to each natural gas distribution company subject to the Commission's jurisdiction, each natural gas supplier licensed to conduct business within this Commonwealth, the Office of Consumer Advocate, the Office of Small Business Advocate and the Commission's Office of Trial Staff.

By the Commission

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-207. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

RECOVERY OF FUEL COSTS BY GAS UTILITIES

§ 53.69. Fixed rate option.

(a) Components of the fixed rate option shall include all gas costs as defined in section 1307(g) of the act (relating to sliding to scale of rates; adjustments). The natural gas distribution company may offer a fixed rate option to collect these costs for either the heating season or for another time period which exceeds the heating season in duration, but in no event exceeds 12 months.

(b) Natural gas distribution companies adjusting rates for natural gas sales on a regular, less than quarterly but no more frequent than monthly, basis shall submit a separate reconciliation calculation of the fixed rate option service, consistent with the company's response to § 53.64(i) (relating to filing requirements for natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million). This reconciliation shall present the fixed rate option sales, revenues and costs, separated from the reconciliation of other retail sales. The reconciliation period of fixed rate option sales shall be the same period used to reconcile the company's other retail sales as presented in compliance with section 1307(f)(3) of the act.

(c) Eligible customers may sign up for the fixed rate option during the 3-month period which ends on the 1st day of the 12-month fixed rate option contract period.

(d) Chapter 56 (relating to standards and billing practices for residential utility service) is applicable to all fixed rate option sales to residential customers.

[Pa.B. Doc. No. 99-1667. Filed for public inspection October 1, 1999, 9:00 a.m.]

**STATE BOARD OF
MEDICINE
STATE BOARD OF
NURSING**

[49 PA. CODE CHS. 18 AND 21]

Certified Registered Nurse Practitioners Prescriptive Authority

The State Boards of Medicine and Nursing (Boards) propose to amend their regulations governing certified registered nurse practitioners (CRNPs) Chapters 18 and 21 (relating to State Board of Medicine; and State Board of Nursing), to read as set forth in Annex A, relating to CRNP prescriptive authority.

A. Effective Date

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

B. Statutory Authority

Section 15(b) of the Medical Practice Act of 1985 (63 P. S. § 422.15(b)) authorizes the Boards to jointly promulgate regulations authorizing CRNPs to perform acts of medical diagnoses and prescription of medical, therapeutic, diagnostic or corrective measures. Section 2(1) of the Professional Nursing Law (63 P. S. § 212(1)) similarly indicates that a professional nurse may perform acts of medical diagnosis or prescription of medical therapeutic or corrective measures only if the Boards promulgate regulations authorizing these acts. These provisions were originally enacted in the practice acts of 1974. Under the 1974 laws, the Boards jointly promulgated the current regulations which provide for certification of nurse practitioners.

C. Background and Purpose

In accordance with their statutory authority the Boards have negotiated rulemaking which would authorize

CRNPs to prescribe and dispense drugs. CRNPs are advanced practice nurses who are certified by the Boards in a particular clinical specialty area. See §§ 18.21 et seq. and 21.251 et seq. An applicant for certification as a CRNP shall be a currently licensed professional or registered nurse who has successfully completed a course of study of at least 1 academic year in a program approved by the Boards. See §§ 18.41 and 21.271. Almost all nurse practitioner programs grant a master's degree and include a course in advanced pharmacology. The proposed regulations will enable Pennsylvania CRNPs to make full use of their advanced education and skills.

At the present time CRNPs in most states have varying degrees of prescriptive and dispensing authority. Only about eight states do not permit CRNPs to prescribe or dispense drugs.¹ The remaining states authorize CRNPs to prescribe or dispense, or both, with varying degrees of regulation or limitation. Of the states permitting CRNPs to prescribe drugs, 32 states require the authority to be identified in the collaborative agreement, 13 states limit prescribing authority to substances which are not controlled, and 27 allow prescription of controlled substances, but with varying degrees of regulation or limitation.²

D. Description of Proposed Regulations

The proposal would add two new sections to the existing regulations regarding CRNPs. The first section, §§ 18.53 and 21.283, of the State Board of Medicine and the State Board of Nursing, would establish the requirements a CRNP shall meet to prescribe and dispense drugs: completion of a CRNP program approved by the Boards, which includes a course in advanced pharmacology, and adherence to standards for prescribing already established by the State Board of Medicine and the Department of Health.

The second sections, §§ 18.54 and 21.284, specify categories of drugs which a CRNP may prescribe and dispense without restriction, those which the CRNP may prescribe and dispense with limitations, and those which the CRNP may not prescribe or dispense. The first category contains those drugs a CRNP will be able to prescribe and dispense without specific limits (§§ 18.54(b) and 21.284(b)). The second category contains those drugs a CRNP will be able to prescribe and dispense only if the collaborative agreement between the physician and CRNP authorizes prescribing and dispensing those drugs (§§ 18.54(c) and 21.284(c)). The third category contains those drugs which a CRNP may not prescribe or dispense (§§ 18.54(d) and 21.284(d)). This section also establishes the parameters for prescribing and dispensing controlled substances (§§ 18.54(f) and (g) and 21.284(f) and (g)). Further provisions would establish procedures to deal with an inappropriately prescribed or dispensed drug (§§ 18.54(e) and 21.284(f)), requirements pertaining to prescription blanks (§§ 18.54(h) and 21.284(h)) and documentation of the prescription in a patient's medical record (§§ 18.54(i) and 21.284(i)).

E. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposed regulations the Boards solicited input and suggestions from the regulated community. The Boards mailed a draft on June 26, 1998, to 54 organiza-

tions, entities and individuals who had an interest in CRNP prescribing. The Boards received 373 responses to the solicitation. The Boards revised the draft as a result of the responses.

F. Fiscal Impact and Paperwork Requirements

There will not be an adverse fiscal impact or additional paperwork imposed on the Commonwealth, political subdivisions or the private sector. Citizens of this Commonwealth will benefit from having more ready access to cost-effective, quality health care.

There will be a very slight increase in paperwork to the regulated community in regard to certain categories of drugs because a CRNP would be authorized to prescribe or dispense from these categories only if the authorization is documented in the collaborative agreement.

G. Sunset Date

The Boards continuously monitor their 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 September 17, 1999, the Boards submitted a copy of these proposed regulations 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 proposal, the Boards have provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Boards 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 regulations, it will notify the Boards within 10 days after the expiration of the Committees' review 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 of objections prior to final publication of the proposed regulations by the Boards, 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 regulations to Cindy Warner, Health Licensing Division, Bureau of Professional and Occupational Affairs, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of the proposed regulations in the *Pennsylvania Bulletin*. Please cite to *CRNP Prescriptive Authority* when submitting comments. Please do not send copies of the same comment to both Boards.

DANIEL B. KIMBALL, Jr., M.D.,
Chairperson
State Board of Medicine
and

CHRISTINE ALICHNIE, Ph.D., R.N.,
Chairperson
State Board of Nursing

Fiscal Note: 16A-499. No fiscal impact; (8) recommends adoption.

¹ U.S. Department of Health and Human Services, Health Resources & Services Administration, "Curriculum Guidelines & Regulatory Criteria for Family Nurse Practitioners Seeking Prescriptive Authority to Manage Pharmacotherapeutics in Primary Care, Summary Report, 1998 (Curriculum Guidelines)," (Prepared by National Council of State Boards of Nursing and National Organization of Nurse Practitioner Faculties) page 14, Table 1.

² Curriculum Guidelines, pages 17-18, Tables 3-4.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 18. STATE BOARD OF MEDICINE—PRACTITIONERS OTHER THAN MEDICAL DOCTORS

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

CRNP PRACTICE

§ 18.53. Prescribing and dispensing drugs.

A CRNP may prescribe and dispense drugs if:

(1) The CRNP has completed a CRNP program which is approved by the Boards or, if completed in another state, is equivalent to programs approved by the Boards.

(2) The CRNP program includes a core course in advanced pharmacology.

(3) In prescribing and dispensing drugs a CRNP shall comply with standards of the State Board of Medicine in §§ 16.92—16.94 (relating to prescribing, administering and dispensing controlled substances; packaging; and labeling of dispensed drugs) and the Department of Health in 28 Pa. Code § 25.51—25.58, 25.61—25.81 and 25.91—25.95 (relating to prescriptions and labeling of drugs, devices and cosmetics and controlled substances).

§ 18.54. Prescribing and dispensing parameters.

(a) The Board adopts the *American Hospital Formulary Service Pharmacologic-Therapeutic Classification* to identify drugs which the CRNP may prescribe and dispense subject to the parameters identified in this section.

(b) A CRNP may prescribe and dispense a drug from the following categories without limitation (unless the drug is limited or excluded under other subsections):

- (1) Antihistamines.
- (2) Anti-infective agents
- (3) Cardiovascular drugs.
- (4) Contraceptives including foams and devices.
- (5) Diagnostic agents.
- (6) Disinfectants for agents used on objects other than skin.
- (7) Electrolytic, caloric and water balance.
- (8) Enzymes.
- (9) Antitussive, expectorants and mucolytic agents.
- (10) Gastrointestinal drugs.
- (11) Local anesthetics.
- (12) Serums, toxoid and vaccines.
- (13) Skin and mucous membrane agents.
- (14) Smooth muscle relaxants.
- (15) Vitamins.
- (16) Hypoglycemic agents.
- (17) Endocrine replacement agents.

(c) A CRNP may prescribe and dispense a drug from the following categories if that authorization is documented in the collaborative agreement:

- (1) Autonomic drugs.
- (2) Blood formation, coagulation and anticoagulation drugs, and thrombolytic and antithrombolytic agents.
- (3) Central nervous system agents, except that the following drugs are excluded from this category:
 - (i) General anesthetics.
 - (ii) Monoamine oxidase inhibitors.
- (4) Myotics and mydriatics.
- (5) Antineoplastic agents originally prescribed by the collaborating physician and approved for ongoing therapy.

(d) A CRNP may not prescribe or dispense a drug from the following categories:

- (1) Gold compounds.
- (2) Heavy metal antagonists.
- (3) Radioactive agents.

(e) If a collaborating physician learns that the CRNP is prescribing or dispensing a drug inappropriately, the collaborating physician shall immediately advise the CRNP and the CRNP shall stop prescribing or dispensing the drug and shall advise the pharmacy to stop dispensing the drug. The CRNP shall immediately advise the patient to stop taking the drug. This action shall be noted by the CRNP in the patient's medical record.

(f) Restrictions on CRNP prescribing and dispensing practices are as follows:

(1) CRNP may write for a Schedule II controlled substance for up to a 72-hour dose. The CRNP shall notify the collaborating physician immediately (within 24 hours).

(2) A CRNP may prescribe a Schedule III or IV controlled substance for up to 30 days. The prescription may not be refilled unless the collaborating physician authorizes refills.

(g) A CRNP may not:

(1) Prescribe or dispense a Schedule I controlled substance as defined in section 4 of the Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-14).

(2) Prescribe or dispense a drug for a use not permitted by the United States Food and Drug Administration.

(3) Delegate prescriptive authority specifically assigned to the CRNP by the collaborating physician to another health care provider.

(h) A prescription blank shall bear the certification number of the CRNP, the name of the CRNP in printed format at the top of the blank and a space for the entry of the DEA registration number, if appropriate. The collaborating physician shall also be identified as required in § 16.91 (relating to identifying information on prescriptions and orders for equipment and service).

(i) The CRNP shall document in the patient's medical record the name, amount and dose of the drug prescribed, the number of refills, the date of the prescription and the CRNP's name.

CHAPTER 21. STATE BOARD OF NURSING

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

CRNP PRACTICE

§ 21.283. Prescribing and dispensing drugs.

A CRNP may prescribe and dispense drugs if:

(1) The CRNP has completed a CRNP program which is approved by the Boards or, if completed in another state, is equivalent to programs approved by the Boards.

(2) The CRNP program includes a core course in advanced pharmacology.

(3) In prescribing and dispensing drugs a CRNP shall comply with standards of the State Board of Medicine in §§ 16.92—16.94 (relating to prescribing, administering and dispensing controlled substances; packaging; and labeling of dispensed drugs) and the Department of Health in 28 Pa. Code §§ 25.51—25.58, 25.61—25.81 and 25.91—25.95 (relating to prescriptions and labeling of drugs, devices and cosmetics and controlled substances).

§ 21.284. Prescribing and dispensing parameters.

(a) The Board adopts the *American Hospital Formulary Service Pharmacologic-Therapeutic Classification* to identify drugs which the CRNP may prescribe and dispense subject to the parameters identified in this section.

(b) A CRNP may prescribe and dispense a drug from the following categories without limitation (unless the drug is limited or excluded under other subsections):

- (1) Antihistamines.
- (2) Anti-infective agents.
- (3) Cardiovascular drugs.
- (4) Contraceptives including foams and devices.
- (5) Diagnostic agents.
- (6) Disinfectants for agents used on objects other than skin.
- (7) Electrolytic, caloric and water balance.
- (8) Enzymes.
- (9) Antitussive, expectorants and mucolytic agents.
- (10) Gastrointestinal drugs.
- (11) Local anesthetics.
- (12) Serums, toxoid and vaccines.
- (13) Skin and mucous membrane agents.
- (14) Smooth muscle relaxants.
- (15) Vitamins.
- (16) Hypoglycemic agents.
- (17) Endocrine replacement agents.

(c) A CRNP may prescribe and dispense a drug from the following categories if that authorization is documented in the collaborative agreement:

- (1) Autonomic drugs.
- (2) Blood formation, coagulation and anticoagulation drugs, and thrombolytic and antithrombolytic agents.
- (3) Central nervous system agents, except that the following drugs are excluded from this category:

- (i) General anesthetics.
- (ii) Monoamine oxidase inhibitors.
- (4) Myotics and mydriatics.
- (5) Antineoplastic agents originally prescribed by the collaborating physician and approved for ongoing therapy.

(d) A CRNP may not prescribe or dispense a drug from the following categories:

- (1) Gold compounds.
- (2) Heavy metal antagonists.
- (3) Radioactive agents.

(e) If a collaborating physician learns that the CRNP is prescribing or dispensing a drug inappropriately, the collaborating physician shall immediately advise the CRNP and the CRNP will stop prescribing or dispensing the drug and will advise the pharmacy to stop dispensing the drug. The CRNP shall immediately advise the patient to stop taking the drug. This action shall be noted by the CRNP in the patient's medical record.

(f) Restrictions on CRNP prescribing and dispensing practices are as follows:

(1) A CRNP may write a prescription for a Schedule II controlled substance for up to a 72-hour dose. The CRNP shall notify the collaborating physician immediately (within 24 hours).

(2) A CRNP may prescribe a Schedule III or IV controlled substance for up to 30 days. The prescription may not be refilled unless the collaborating physician authorizes refills.

(g) A CRNP may not:

(1) Prescribe or dispense a Schedule I controlled substance as defined in section 4 of the Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-14).

(2) Prescribe or dispense a drug for a use not permitted by the United States Food and Drug Administration.

(3) Delegate prescriptive authority specifically assigned to the CRNP by the collaborating physician to another health care provider.

(h) A prescription blank shall bear the certification number of the CRNP, the name of the CRNP in printed format at the top of the blank and a space for the entry of the DEA registration number, if appropriate. The collaborating physician shall also be identified as required in § 16.91 (relating to identifying information on prescriptions and orders for equipment and service).

(i) The CRNP shall document in the patient's medical record the name, amount and dose of the drug prescribed, the number of refills, the date of the prescription and the CRNP's name.

[Pa.B. Doc. No. 99-1668. Filed for public inspection October 1, 1999, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

[49 PA. CODE CH. 19]

Application Fees

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) proposes to amend § 19.4 (relating to fees) by revising certain application fees to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The proposed amendment is authorized under section 30(b) of the Board of Vehicles Act (act) (63 P. S. § 818.30(b)).

C. Background and Purpose

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses of the Board are funded through biennial license renewal fees. Expenses related to applications or services which are provided directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee.

In a recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs, the fees for services to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

$$\begin{aligned} & \text{number of minutes to perform the function} \\ & \quad \times \\ & \text{pay rate for the classification of personnel performing the} \\ & \quad \text{function} \\ & \quad + \\ & \text{a proportionate share of administrative overhead.} \end{aligned}$$

The analysis determined that the fees for nine services do not accurately reflect the actual cost of providing those services: license application as vehicle salesperson or representative; license application as vehicle manufacturer, distributor or manufacturer's branch; license application as vehicle dealer, broker, used or branch lot; reinspection after failure; change of employment status-vehicle salesperson or representative; business change with no inspection; business change with inspection; certification of license history; and verification of license.

The current fees have not been revised since 1989. In addition, no fee is currently in place for reinspection after failure or certification of license history.

In this proposal, fees for the services identified previously would be adjusted to allocate costs to those who use the service or make an application. The Board would continue to apportion enforcement and operating costs to

the general licensing population by means of its license renewal fees through the biennial reconciliation of revenue and expenditures.

D. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposed amendments the Board considered the least restrictive alternative to regulate costs for services requested by licensees and applicants.

E. Fiscal Impact and Paperwork Requirements

The proposed amendment will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from the Board. The proposed amendment will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

F. Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 17, 1999, the Board submitted a copy of this proposed amendment 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 proposal, 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 amendment, it will notify the Board within 10 days after the expiration of the Committees' review 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 proposed amendment, by the Board, the General Assembly and the Governor, of objections raised.

H. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendment to Teresa Woodall, Administrative Officer, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-600 (Application Fees), when submitting comments.

ROBERT G. PICKERILL,
Chairperson

Fiscal Note: 16A-600. 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 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

GENERAL PROVISIONS

§ 19.4. Fees.

Vehicle salesperson license application	\$	[15]	25
Vehicle representative license application		[15]	25
Vehicle manufacturer license application		[20]	30
Manufacturer branch license application		[20]	30
Wholesale distributor license application		[20]	30
Vehicle dealer license application		[55]	65
Vehicle broker license application		[55]	65
Dealer or broker branch license application		[55]	65
Used vehicle lot license application		[55]	65
Vehicle salesperson change of employer transfer application		[15]	25
Business name or post office address change		[15]	30
Business physical location change		[20]	60
Verification of licensure		[10]	15
Reinspection after failure			45
Certification of license history			25
Biennial renewal—vehicle salesperson license			35

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[Pa.B. Doc. No. 99-1669. Filed for public inspection October 1, 1999, 9:00 a.m.]
