

PROPOSED RULEMAKING

DEPARTMENT OF BANKING

[10 PA. CODE CH. 44]

Mortgage Bankers and Brokers; Continuing Education

The Office of the Budget has submitted a revised Fiscal Note (No. 3-40) for the proposed rulemaking which appeared at 31 Pa.B. 1236 (March 3, 2001).

The revised Fiscal Note reads as follows:

Fiscal Note: 3-40. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 01-01-349. Filed for public inspection March 2, 2001, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 65]

Reasonable Assurance

The Department of Labor and Industry (Department), Bureau of Unemployment Compensation Benefits and Allowances (Bureau), proposes to add § 65.161 (relating to reasonable assurance). The proposed regulation provides criteria for determining the eligibility of employees of educational institutions for unemployment compensation (UC) benefits.

A. Effective Date

The proposed regulation will be effective immediately upon publication in the *Pennsylvania Bulletin*.

The proposed regulation will apply to applications for benefits effective on and after the date of publication.

B. Statutory Authority

The regulation is proposed under section 201(a) of the Unemployment Compensation Law (law) (43 P. S. § 761(a)), which authorizes the Department to promulgate and amend rules and regulations necessary to administer the Law.

C. Background and Purpose of Proposed Rulemaking

The purpose of this proposed rulemaking is to bring the Pennsylvania Unemployment Compensation (UC) eligibility criteria into conformity with the United States Department of Labor's (USDOL) requirements under section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C.A. § 3304(a)(6)(A)) with regard to a principle known as "reasonable assurance."

FUTA requires the states to deny UC benefits based on services in an instructional, research or principal administrative capacity for an educational institution, for any week between 2 academic years or terms, if the claimant performed services in any of those capacities in the first year or term and there is a contract or reasonable assurance that the claimant will perform services in any of those capacities in the second year or term. FUTA also requires the states to deny benefits based on services in an instructional, research or principal administrative

capacity for an educational institution, for any week during a vacation period or holiday recess, if the claimant performed services in any of those capacities before the vacation or holiday and there is a reasonable assurance that the claimant will perform services in any capacity after the vacation or holiday. FUTA permits the states to deny benefits based on services for an educational institution in a capacity other than instructional, research or principal administrative, for any week between 2 academic years or terms, or any week during a vacation period or holiday recess, if the claimant performed these services in the first year or term or before the vacation or holiday, and there is a reasonable assurance that the claimant will perform services in any capacity in the second year or term or after the vacation or holiday, respectively. FUTA also applies these denial provisions to claimants who are employed by an educational service agency. These provisions of FUTA apply to governmental and nonprofit educational institutions and educational service agencies (collectively, educational employers). See 26 U.S.C.A. § 3304(a)(6)(A).

As administrator of these provisions of FUTA, the USDOL imposes requirements on the states regarding the interpretation and application of the statute. Unemployment Insurance Program Letter 4-87, which sets forth USDOL's official interpretation of "reasonable assurance" in FUTA, provides that a reasonable assurance of employment in the second academic period exists only if there is a bona fide offer of employment and the economic terms and conditions of the employment in the second academic period are not substantially less than the terms and conditions of the claimant's employment in the first academic period. For example, if a full-time teacher is given an offer to return to work as a part-time substitute teacher in the following academic year, his employment in the second academic period would not be economically equivalent to his employment in the first academic period, as required by the USDOL. Therefore, there is no reasonable assurance and the teacher should be eligible for benefits for the summer.

Pennsylvania's implementation of the FUTA provisions regarding the eligibility of employees of educational employers is found in section 402.1 of the law (43 P. S. § 802.1). Section 402.1(1) and (2) of the law denies benefits based on services for an educational institution, for any week between two academic years or terms. Paragraph (1) applies to services in an instructional, research or principal administrative capacity, and paragraph (2) applies to services in any other capacity.) Paragraph (3) denies benefits based on services in any capacity for an educational institution, for any week during a vacation period or holiday recess. Paragraph (4) extends the denial provisions of paragraphs (1), (2) and (3) to services performed in the employ of an educational service agency. The denial provisions of section 402.1 of the law require the existence of a contract or reasonable assurance of employment in the second academic period.

Currently, the Commonwealth does not include economic equivalency as a necessary element of reasonable assurance, and its failure to do so was brought to light in a recent case. In *Musko v. U.C.B.R.*, No. 2740 C. D. 1997 (Pa. Cmwlth., filed June 23, 1998 (unreported)), appeal denied, 558 Pa. 624, 737 A.2d 745 (1999), the claimant was a full-time school teacher in the first academic year and received an assurance of returning to work as a per diem or long-term substitute teacher in the second aca-

demical year. The Commonwealth Court held that the claimant was ineligible for benefits for the summer, because he worked in an instructional capacity in the first year and had an assurance of returning to work in an instructional capacity for the second year. However, the economic terms and conditions of the position offered to him for the second year were substantially less than the terms and conditions of his job in the first year. If the economic equivalency test had been applied as required by USDOL, the claimant would have been eligible for UC benefits.

To conform to FUTA, the Commonwealth and the other states can deny benefits to employees of educational employers only to the extent authorized by Federal law. In *Musko*, the Commonwealth went beyond the scope of the Federal law as interpreted by USDOL when it denied benefits to a claimant who was not offered an economically equivalent position for the next school year. As a result, the USDOL informed the Department that it was out of conformity with the Federal law.

To conform to the USDOL's reasonable assurance requirements, the Department proposes this regulation.

D. Summary of Proposed Rulemaking

The proposed regulation clarifies the meaning of the term "reasonable assurance." Under the regulation, reasonable assurance would exist only if the individual receives a bona fide offer of employment for the next academic period, under economic terms and conditions that are not substantially less than the terms and conditions of the individual's employment in the first academic period.

E. Affected Persons

The universe of persons potentially affected by the proposed regulation consists of 3,863 educational employers and 443,073 employees of educational employers in this Commonwealth.

F. Fiscal Impact

For a state to receive Federal administrative funding and tax credits, its UC Law must conform to FUTA. The emergence of a conformity issue could have substantial impact on the Commonwealth. If the Commonwealth does not adopt the regulation and is adjudged to be out of conformity with Federal law, the Secretary of USDOL would withdraw certification from the Commonwealth, which would abrogate administrative funding for both the UC system and the employment service. In addition, employers within this Commonwealth would lose the FUTA tax credits to which they are entitled by virtue of paying state UC taxes.

The fiscal impact of the regulation on the UC Fund, if any, is difficult to ascertain. Employees of educational employers who are not given a reasonable assurance of returning to work, as defined by the regulation, would be eligible for UC benefits. However, eligibility for these employees could prompt affected employers to provide the level of reasonable assurance required by the regulation, thereby causing an eventual decrease in benefit payments.

Any increase in the cost of administering the UC program would be nominal, because no measurable increase in personnel, time or resources will be necessary to administer section 402.1 of the law as impacted by the regulation.

G. Paperwork Requirement

No new paperwork is required.

H. Sunset Date

The regulation will be monitored through practice and application. Thus, no sunset date is designated.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of this proposed regulation on March 8, 2001, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Labor Relations Committee and the Senate Labor and Industry Committee. In addition to submitting the proposed regulation, 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.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed regulation, it will notify the Department within 10 days after the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion of the proposed regulation to which an objection is made. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the Governor of objections raised, prior to final publication of the regulation.

J. Public Comment

Interested parties are invited to submit written comments, objections or suggestions about the proposed regulation to Jeri Morris, Department of Labor and Industry, Bureau of Unemployment Compensation Benefits and Allowances (BUCBA), 6th Floor, Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17121 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Written comments received by the Department may be made available to the public.

Comments may also be submitted electronically at "kwright@dli.state.pa.us." A subject heading referencing the proposed regulation, name and return mailing address must be included in each transmission. In addition, all electronic comments shall be contained in the text of the transmission, not in an attachment.

For further information on this proposed rulemaking, contact Jeri Morris at (717) 787-6337.

JOHNNY J. BUTLER,
Secretary

Fiscal Note: 12-56. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART II. EMPLOYMENT SECURITY

Subpart A. UNEMPLOYMENT COMPENSATION

CHAPTER 65. EMPLOYEE PROVISIONS

Subchapter I. BENEFITS BASED ON SERVICE FOR EDUCATIONAL INSTITUTIONS

Sec. 65.161. Reasonable assurance.

§ 65.161. Reasonable assurance.

(a) For purposes of section 402.1 of the law (43 P. S. § 802.1), a contract or reasonable assurance that an

individual will perform services in the second academic period exists only if both of the following conditions are met:

(1) The educational institution or educational service agency provides a bona fide offer of employment for the second academic period to the individual.

(2) The economic terms and conditions of the employment offered to the individual for the second academic period are not substantially less than the terms and conditions of the individual's employment in the first academic period.

(b) For the purposes of subsection (a), an offer of employment is not bona fide if both of the following conditions exist:

(1) The educational institution or educational service agency does not control the circumstances under which the individual would be employed.

(2) The educational institution or educational service agency cannot provide evidence that the individual or similarly situated individuals normally perform services in the second academic period.

[Pa.B. Doc. No. 01-500. Filed for public inspection March 23, 2001, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 143 AND 147]

Internet Sale of Licenses; Deer Management; Remedial Hunter Education Course; Elk Licenses; Bobcat Hunting

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its January 23, 2001, meeting, proposed the following amendments:

Amend § 143.11 (relating to internet license sales) by adding language to allow persons to purchase hunting licenses through the Commission's website.

Amend § 143.42 (relating to definitions) by eliminating the words private land and replacing them with unsold, and to allow hunters to apply for multiple licenses without restricting use for private land only.

Amend § 143.49 (relating to issuing licenses), § 143.51 (relating to application and issuance of private land tags), § 143.54 (relating to validity of license), and § 143.55 (relating to unlawful acts) to change the name of antlerless licenses, other than regular antlerless licenses, from private land tags to unsold tags and amend issuance procedures.

Amend § 143.124 (relating to restoration of hunting and furtaking privileges of offenders in hunting related shooting incidents, or other mandatory revocations) by requiring a remedial hunter education course for all persons whose hunting and trapping privileges have been revoked under mandatory revocation. Course may be taken no earlier than 3 months prior to the end of the period of revocation and a fee of \$50 will be charged.

Add Chapter 143, Subchapter K (relating to elk licenses) to establish methods for applying for elk licenses.

Amend § 147.701 (relating to general) to give applicants the opportunity to also apply for a bobcat permit through the Commission's website and to improve the

administration of the drawing to provide a reliable crosscheck of the database for duplicate applications.

These proposed amendments will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for these proposals is 34 Pa.C.S. (relating to the Game and Wildlife Code).

These proposals were made public at the January 23, 2001, meeting of the Commission, and comments on these proposals can be sent to the Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 6, 2001.

Proposed Amendment of § 143.111

Introduction

To more effectively issue hunting and furtaking licenses, the Commission at its January 23, 2001, meeting proposed adding § 143.11 providing for Internet license sales. This addition is being proposed under section 2722(g)(2) of the code (relating to authorized license—issuing agents).

Purpose and Authority

The act of December 20, 2000 (P. L. 452, No. 111) (Act 111) amended section 2708 of the code to allow for the electronic application for and issuance of hunting licenses. Act 111 also added section 2708(c) which authorizes the Director, with approval of the Commission, to establish additional policies and procedures with regard to accepting and processing of electronically filed license applications. As a result, the Commission proposed § 143.11 to provide procedures for issuance of additional hunting licenses by means of the Internet.

Also, section 2722(g)(2) of the code authorizes the Commission to adopt regulations for the administration, control and performance of license issuance activities. This provision supplies the authority for the proposal.

Regulatory Requirements

The proposed change will allow printing of additional license privileges on hunting license back tags and the validating of those privileges by the assigning and entering of a web order number.

Persons Affected

Individuals wishing to take advantage of additional license issuance by Internet will be required to follow the new procedures.

Cost and Paperwork Requirements

The proposal will only require the entering of a web order number on the hunting back tag.

Proposed Amendments to §§ 143.42, 143.49, 143.51, 143.54 and 143.55

1. Introduction

At its April and June 2000 meetings, the Commission proposed and adopted restricting the use of unsold antlerless deer licenses to "private land." After one hunting season of the restriction, the Commission has decided that is not the most effective means of deer management. In addition, the Commission is in the process of revamping its entire deer management program.

As a result, the Commission at its January 23, 2001, meeting proposed changing §§ 143.42, 143.49, 143.51, 143.54 and 143.55 to redesignate "private land" tags back to "unsold" tags and eliminate the private land restrictions contained in those sections. The proposed changes

are being made under the authority of section 2102 of the code (relating to regulations).

2. Purpose and Authority

As was indicated in the Introduction of this Preamble, the Commission is in the process of changing its deer management program. Originally, it was thought that restricting the use of unsold antlerless deer licenses to private land and public land with an approved management plan would increase hunting pressure on private lands. It is important, however, to maintain hunting pressure on public lands also. The proposed designation back to "unsold antlerless deer tags" should accomplish this purpose.

The proposed changes to § 143.42 will substitute "unsold" for "private land" in the definitions and delete the definition of "public land." The proposed change to § 143.49 makes an exception to the United States Postal Service delivery deadline for "private land" licenses which are redesignated as "unsold tags." The proposed changes to § 143.51 involve substituting "unsold" wherever "private land" is found, deleting provisions for approval of deer management plans on public land, and setting the eligibility date for applying for unsold tags. The proposed change to § 143.54 involves the deletion of a provision that private land tags are valid only on private land or public land with an approved management plan. Finally, the proposed changes to § 143.55 would essentially substitute "unsold" for "private land."

Section 2102 of the code directs the Commission to promulgate the regulations as it deems necessary and appropriate concerning game or wildlife and hunting. This section provides authority for the proposed changes.

3. Regulatory Requirements

The proposed changes would relax current requirements.

4. Persons Affected

Those wishing to harvest antlerless deer could be affected by the proposed changes.

5. Cost and Paperwork Requirements

The proposed changes should not result in any additional cost or paperwork.

Proposed Amendment to § 143.124

1. Introduction

Act 111 amended section 929 of the code (relating to revocation or denial of license, permit or registration) to require persons whose hunting privileges have been revoked or suspended under a mandatory provision of the code to successfully complete a separate remedial hunter education course prior to obtaining a hunting license. To implement this change in the law, the Commission at its January 23, 2001, meeting proposed changing § 143.124 to provide for the required remedial hunter education course. This proposal was made under a specific mandate contained in Act 111 which is now part of section 929 of the code.

2. Purpose and Authority

The act of December 19, 1996 (P. L. 1442, No. 184) (Act 184) amended section 929 of the code to require persons whose hunting privileges were revoked or suspended under a mandatory provision of the code to successfully complete a hunter education course. After a great deal of consideration, the Commission decided to propose to the General Assembly that the requirement involve a remedial hunter education course separate from the course

designed for those desiring to be first-time hunters. This proposal was accepted in the form of Act 111.

Act 111 specifically provides that "the Commission shall promulgate regulations establishing the curriculum, administration and any associated fees of such a remedial course . . ." In addition, section 929(b) of the code generally authorizes the Commission to promulgate regulations relating to revocation of hunting and furtaking privileges. These provisions provide the authority for the proposed changes.

3. Regulatory Requirements

The proposed changes specify the minimum content of the remedial hunter education program and direct the Commission's Hunter-Trapper Education Division to develop and administer the program. In addition, those enrolling in the remedial course will be required to pay a fee of \$50.

4. Persons Affected

Individuals whose hunting license privileges have been revoked or suspended under mandatory provisions of the code would be affected.

5. Cost and Paperwork Requirements

Persons required to enroll in the remedial hunter education course will be required to pay a \$50 fee under the proposal. The Commission will also need to develop a program of instruction which will entail additional paperwork.

Proposed Addition of Chapter 143, Subchapter K

1. Introduction

Act 111 added section 2705(15) to the code, which provides for issuance by the Commission of elk hunting licenses. In addition, the Commission has proposed regulations providing for an elk hunting season in this Commonwealth in 2001. As a result, the Commission at its January 23, 2001, meeting proposed adding Subchapter K. The new subchapter would establish policies and procedures for the issuance of elk hunting licenses. This subchapter is proposed under sections 2705(15) and 2722(g)(2) of the code.

2. Purpose and Authority

The elk population in this Commonwealth has been increasing in recent years. This has resulted in increased complaints of nuisance elk and a larger number of incidents of elk being shot for crop damage. Also, as was previously stated, the legal framework for an elk hunting season is being established. One of the final steps is the establishment of policies and procedures for issuing elk licenses. The proposed addition of Subchapter K will accomplish this purpose.

Section 2705(15) of the code specifically authorizes the Commission to promulgate regulations to establish a limited number of elk licenses and allows the establishment of a nonrefundable application fee of \$10. In addition, section 2722(g)(2) of the code directs the Commission to adopt regulations for the administration and control of issuance of hunting licenses. These sections provide the authority for the proposed regulations.

3. Regulatory Requirements

The proposal will require the submission to the Commission's Harrisburg Headquarters of a complete and legible paper or electronic elk license application, the payment of a \$10 nonrefundable application fee, and the random drawing of the successful applications. Successful applicants will be required to have a regular hunting

license, unless they are exempt, and to attend an orientation session. Applicants receiving an antlered elk license will be disqualified from applying for another elk license for 5 years.

Proposed Amendment of § 147.701

1. *Introduction*

2000-2001 is the first year in which the Commonwealth has had a bobcat hunting and trapping season. To facilitate that season, the Commission at its April 4, 2000, meeting adopted §§ 147.701 and 147.702 which provide for the issuance of a bobcat hunting trapping permit. Primarily, to allow for submission of applications for bobcat hunting-trapping permits through the Internet, the Commission at its January 23, 2001, meeting proposed changes to § 147.701. These changes would be made under authority contained in sections 2901, 2902 and 2904 of the code (relating to authority to issue permits; general categories of permits; and permit fees).

2. *Purpose and Authority*

After 1 year including a bobcat hunting-trapping season, some minor adjustments clearly need to be made. The proposed adjustments include the option of applying for a bobcat permit over the Internet, changes in the application period, the addition of a provision that incomplete, illegible or duplicate applications will not be included in the drawing, and deletion of a provision that permits will be limited to the first 290 valid applications drawn.

Section 2901(b) of the code authorizes the Commission to promulgate regulations for the issuance of any permit. Section 2902(c) of the code authorizes the director to "... issue other permits, with or without charge, as required to control the taking of game or wildlife..." Finally, section 2904(18) of the code mandates that the Commission "... shall set a reasonable fee for any permit required by this title which is not specifically set forth in this section." These sections provide the authority for the proposed amendment.

3. *Regulatory Requirements*

The proposed amendment requires holders of furtaker or combination licenses to submit a complete, legible application together with a nonrefundable fee between July 1 and the third Friday in August to obtain bobcat permit. Those receiving a permit and harvesting a bobcat will be required to comply with tagging requirements.

4. *Persons Affected*

Persons wishing to harvest a bobcat by hunting or trapping will be affected by the proposed regulations.

5. *Cost and Paperwork Requirement*

Applicants for a permit will be required to submit a complete, legible application and pay a nonrefundable fee of \$5 which should cover the cost of issuing permits and tagging bobcats.

Effective Date

The proposed changes will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

Contact Person

For further information on the proposed changes contact David E. Overcash, Acting Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-130. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTAKER LICENSES

Subchapter A. GENERAL

§ 143.11. Internet license sales.

To fulfill Internet orders for general hunting licenses, the Commission may print specific license privileges directly on the hunting license back tag. For individuals who already possess a valid hunting license and opt to purchase an archery, muzzleloader, migratory game bird or bear license using the Commission's website, the Commission may assign a web order number to issue these additional license privileges. To validate these additional privileges, the license holder shall enter his web order number on the general hunting license back tag and sign in the spaces provided.

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.42. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

[Private land—Land that is not defined as public land.

Private land] Unsold tag—An antlerless deer license permitting properly licensed persons to take an antlerless deer during **[the regular]** any firearms antlerless deer season, archery or flintlock muzzleloader **and muzzleloader** deer seasons in the county of issue.

[Private land] Unsold tag application—The form contained in the "Hunting and Trapping Digest" used in applying for **[a private land] an unsold tag.**

* * * * *

[Public land—Any land owned or controlled by a Federal or State agency, or municipal political subdivision.]

* * * * *

§ 143.49. Issuing licenses.

* * * * *

(c) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for qualified landowners, licenses issued shall be delivered to successful applicants in the envelope by standard first class mail through and by the United States Postal Service. Licenses shall be placed with the United States Postal Service no later than the third Monday in September, **except for licenses issued under § 143.51(f)**

(relating to application and issuance of unsold tags) which shall be placed with the United States Postal Service no later than the fourth Monday in September. If more than one application is mailed to the county treasurer in the same envelope, the licenses shall be mailed to the person whose name appears on the return section of the envelope. The person receiving the additional licenses is responsible for delivering them to the appropriate people.

* * * * *

§ 143.51. Application and issuance of [private land] unsold tags.

(a) Except as provided in § 143.52 (relating to procedures for unlimited antlerless licenses), beginning on the fourth Monday in August, residents and nonresidents of this Commonwealth are eligible to receive [a private land] an unsold tag. [Private land tags are valid only on private land or on public land with a deer management plan approved by the Commission.]

(b) An applicant for this tag may not use the regular antlerless deer license application. An applicant shall only use the [private land] unsold application contained in the "Hunting and Trapping Digest" or a reasonable facsimile thereof.

* * * * *

(e) [Private land] Unsold tags shall be validated by the addition of the county treasurer's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag [and stamp the face of the license "private land only" with a stamp provided by the Commission].

(f) [The procedure for approval of a deer management plan is as follows:

(1) An application for approval of a deer management plan that would allow private land tags to be used on a designated area of public land shall be submitted by an authorized officer or employe of the political subdivision in the form required by the Director.

(2) An application for approval of a deer management plan that will allow the use of private land tags on a designated public land area shall contain the following information:

(i) The name of the political subdivision that is requesting approval of a deer management plan.

(ii) The name and address of the authorized officer or employe of the political subdivision who will be the contact person for the plan.

(iii) A map showing the location and boundaries of the area and the county, township and Commission deer management unit the site is located in.

(iv) A description of the management area delineated on the map in subparagraph (iii) including the size in acres, cover types (forested, nonforested), principal land uses, huntable areas and safety zones, and hunter access points.

(v) A brief description of the area including access points that the person in control of the land

wants to have posted on the Commission web site, as well as the name and address of a contact person for more information.

(vi) An explanation of deer management goals and objectives for the area. Goals include deer density, habitat condition, forest regeneration, other wildlife and recreational opportunities.

(vii) An explanation to substantiate why the person in control of the land wants to increase the harvest of antlerless deer by allowing use of private land tags on the area. Area specific information shall be provided that supports the deer management goals and objectives such as deer density estimates, indices of deer abundance, buck/doe ratios, fawn/doe ratios, deer condition, habitat conditions, plant species abundance or diversity, forest regeneration, and hunter success rates.

(3) Completed applications shall be received at least 2 months before the first day that applications for private land tags can be accepted. The person in control of the land will be notified of approval or disapproval at least 1 month before the first day that applications for private land tags can be accepted.

(4) Upon approval of the deer management plan, the person in control of the land will conspicuously post the site boundary and all public roadways traversing the property with signs provided by the Commission. Posting shall be completed by the opening date of the first fall antlerless deer season.]

Beginning on the second Monday in September, residents and nonresidents of this Commonwealth are eligible to apply for one additional unsold tag by mail.

§ 143.54. Validity of license.

An antlerless deer license is valid for taking antlerless deer only in the county designated on the antlerless deer license. [Private land tags are valid only on private land or on public land with a deer management plan approved by the Commission.]

§ 143.55. Unlawful acts.

It is unlawful:

* * * * *

(5) For a person to apply for or receive more than one antlerless license or more than one [private land] unsold tag, except as specified in §§ 143.51(f), 143.52 [(a) and (b)] and 143.53 (relating to application and issuance of unsold tags; procedure for unlimited antlerless deer licenses; and reapplication).

* * * * *

Subchapter G. MANDATED REVOCATION OF HUNTING AND FURTAKING LICENSE AND RIGHTS

§ 143.124. Restoration of hunting and furtaking privileges of offenders in hunting related shooting incidents, or other mandatory revocations.

(a) A person whose hunting and furtaking privileges have been denied under section 2522(c) [(1)—(2) and (3)] of the act (relating to shooting at or causing injury to human beings), shall, prior to having hunting and furtaking privileges restored, comply with the following:

* * * * *

(2) Provide to the Commission on a form provided, evidence that the offender has successfully completed a Commission sponsored **remedial hunter [trapper]** education course.

(b) A remedial hunter education course shall be a specific course of study sponsored by the Commission that is to be completed by certain offenders of the act before their license privileges are restored. It shall include lessons concerning the safe use and handling of firearms, hunting laws and regulations, responsible hunting behavior and hunter ethics.

(1) The development and administration of the remedial hunter education program shall be the responsibility of the Hunter-Trapper Education Division.

(2) A fee of \$50 shall be charged to each student to enroll in a remedial hunter education course.

(Editor's Note: The following chapter is new. It has been printed in regular type to enhance readability.)

Subchapter K. ELK LICENSES

- Sec. 143.201. Purpose and scope.
- 143.202. Application.
- 143.203. Drawing.
- 143.204. Unlawful acts.
- 143.205. Penalties.

§ 143.201. Purpose and scope.

If the Commission approves an elk hunting season, this subchapter establishes methods of applying for elk licenses. The Commission will set the number of licenses to be issued, establishing a quantity of tags for antlered and antlerless elk.

§ 143.202. Application.

(a) Applications for elk licenses shall be submitted to the Commission's Harrisburg Headquarters. The Executive Director will set periods for accepting applications.

(b) Applications for elk licenses shall be made using an electronic application on the Commission's Internet website or a paper form made available by the Commission providing information as may be required by the Executive Director. A nonrefundable \$10 application fee shall accompany each application.

(c) For the purpose of having a unique identifier assigned to each individual in the database, permitting a crosscheck for duplicates, applicants shall provide their Social Security number on the application.

§ 143.203. Drawing.

(a) The Executive Director will set the date and location for the random drawing of applications for the issuance of elk licenses. Incomplete, illegible or duplicate applications will not be included in the drawing.

(b) In any given year, no more than 10% of the applications drawn shall be nonresident. A yearly cap on the number of nonresident applications that may be drawn shall be based on the percentage of nonresident general hunting licenses issued the previous year.

(c) An applicant issued an antlered elk license is not permitted to apply for another elk license for 5 license years.

(d) Qualified applicants and alternates drawn for an elk license shall be required to obtain a regular hunting license prior to attending an orientation session spon-

sored by the Commission before the elk license is issued. Persons who are eligible for license and fee exemptions and meet the requirements prescribed in section 2706 of the act (relating to resident license and fee exemptions) are not required to purchase a regular hunting license.

(e) The number of licenses shall be limited to the first 30 valid applications drawn.

§ 143.204. Unlawful acts.

It is unlawful for a person to:

(1) Submit more than one application for an elk license during any hunting license year.

(2) Apply for or to receive a license contrary to the act or this part.

§ 143.205. Penalties.

A person violating this subchapter shall, upon conviction, be sentenced to pay the fine prescribed in the act.

CHAPTER 147. SPECIAL PERMITS

Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

§ 147.701. General.

This section provides for permits to be issued for the hunting and trapping of bobcat during the season established and in areas designated under § 139.4 (relating to seasons and bag limits for the license year).

* * * * *

(2) The fee for **an application** for a permit to take a bobcat is \$5.

(3) Applications shall be submitted on a form supplied by the Commission **or by using an electronic application on the Commission's Internet website** and shall contain the required information as requested. **For the purpose of having a unique identifier assigned to each individual in the database, permitting a crosscheck for duplicates, applicants shall provide their Social Security number on the application.** A **[check or money order in the amount of]** \$5 **[payable to the "Pennsylvania Game Commission"] application fee** shall accompany the application and is nonrefundable. Applications shall be **[mailed] submitted** to the Commission's **[Bureau of Wildlife Management, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797] Harrisburg Headquarters.**

(4) Applications may only be submitted **[by mail]** between July 1 and **[August 31] the third Friday in August.** Applications **[received] postmarked** later than **[August 31] the third Friday in August** will be rejected.

* * * * *

(6) The selection of **[mailed application forms] applications** will be made by random drawing from all eligible applications submitted. **Incomplete, illegible or duplicate applications will not be included in the drawing.** The drawing will be held at the Commission's Harrisburg **[headquarters] Headquarters** on the second Friday in September and shall be open to the public.

(7) A special permit authorizing the lawful taking of one bobcat will be delivered to successful applicants by standard first class mail through and by the United States Postal Service. Permits shall be mailed by the first Friday in October [**and will be limited to the first 290 valid applications drawn**].

* * * * *

(9) An applicant issued a bobcat hunting-trapping permit is not permitted to apply for another bobcat hunting-trapping permit the next license year.

[Pa.B. Doc. No. 01-501. Filed for public inspection March 23, 2001, 9:00 a.m.]

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CHS. 47—49]
Licensure

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) proposes to amend §§ 47.1, 47.11 and 47.12 (relating to definitions; licensure examination; and qualifications for licensure), reserve § 47.13 (relating to licensure without examination), add §§ 47.12a—47.12d and 47.13b (relating to licensed social worker; provisional license as a social worker; licensed clinical social worker; standards for supervisors; and exemption from licensure examination—clinical social workers), and add Chapters 48 and 49 (relating to State Board of Social Workers, Marriage and Family Therapists and Professional Counselors—licensure of marriage and family therapists; and State Board of Social Workers, Marriage and Family Therapists and Professional Counselors—licensure of professional counselors) to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The proposed amendments are authorized under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P.S. § 1906(2)).

C. Background and Purpose

The General Assembly enacted the act of December 21, 1998 (P.L. 1017, No. 136) (Act 136), amending the Social Workers' Practice Act (63 P.S. §§ 1901—1922), by expanding the State Board of Social Work Examiners to include marriage and family therapists and professional counselors. Act 136 also provided three additional licensure groups: (1) licensed clinical social workers; (2) marriage and family therapist; and (3) professional coun-

selors. This proposed rulemaking only addresses definitions and licensure qualifications.

The Board has broken each licensure group into separate chapters: Chapter 47—Licensure of Social Workers; Chapter 48—Licensure of Marriage and Family Therapists; and Chapter 49—Licensure of Professional Counselors. Several requirements for licensure are common to all three groups, and, as a result, are repeated in each individual chapter. To provide the most guidance to licensees, the Board has drafted its preamble in two sections for each of the three chapters. Section 1 organizes statutory and corresponding proposed regulatory provisions by subject matter. Section 2 provides substantive interpretations of the proposed amendments and additions.

D. Description of Proposed Amendments and Additions

Chapter 47. (relating to licensure of social workers)

Section 1. Organization

The proposed amendments track statutory language. The following chart indicates the organization and authority for the amendments. For ease of reference, the first column contains the statutory citation, the second column contains the proposed regulatory citation and the third column contains the subject matter.

<i>STATUTE</i>	<i>PROPOSED REGULATION</i>	<i>SUBJECT MATTER</i>
Section 1903	§ 47.1	Definitions
Section 1907(d)(4)	§ 47.11	Examinations
Section 1907(d)	§ 47.12	General qualifications for licensure
Section 1907(a-d)	§ 47.12a § 47.12b § 47.12c § 47.12d	Qualifications for licensure: Social work Provisional social work Clinical social work Standards for supervisors
Section 1909(a)	§ 47.13b	Exemption from licensure examination/clinical social workers

Section 2. Substantive interpretations of proposed amendments

Current § 47.1 is proposed to be amended to reflect the addition of marriage and family therapists and professional counselors to the title of Act 136 and the name of the Board. It would also be amended to add a definition for “supervisor,” “supervisee” and “licensed clinical social worker.”

The act requires a supervised clinical experience as one of the qualifications for licensed clinical social workers. The Board believes supervision should be provided by an individual who is a licensed clinical social worker with 5 years of experience or by an individual who holds a license in a related field with 5 years of experience in that related field. The Board would allow for a 5 year period in which a supervisor may be an individual who is a clinical social worker with 5 years experience as a clinical social worker and is licensed as a social worker.

Section 47.11 is proposed to be amended to reflect the change of names for the American Association of State Social Work Boards to its current name of Association of Social Work Boards (ASWB), and the State Board of Social Work Examiners to the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors. Section 47.11 would also be amended to add the clinical level examination given by ASWB as the examination required for licensure as a clinical social worker.

Current § 47.12 is proposed to be amended to reorganize the existing qualifications for licensure for social workers and provisional licensed social workers and add the provisions for licensure of clinical social workers. Section 47.12 would become the general qualifications for licensure for these three separate groups. Section 47.12a lists the qualifications for a licensed social worker; § 47.12b lists the qualifications for provisional licensure of social workers; and § 47.12c lists the qualifications for licensure of clinical social workers. There are no substantive changes to the provisions for a licensed social worker and provisional licensed social worker apart from the reorganization.

Proposed § 47.12c would add qualifications for licensure as a clinical social worker. It follows the statutory language of the act. The Board believes it would be helpful for licensees to have these qualifications placed in the regulations as well as the act for their convenience.

In addition to tracking the statutory language, this section sets forth the Board's requirements for the supervised clinical experience. (Supervised experience is also required for licensure of marriage and family therapists and professional counselors, and the provisions in this section of this chapter are repeated in the chapters for the other two licensure groups.) The Board's goal is to establish criteria that would ensure a quality learning experience for supervisees. Supervisees should receive experience in specific areas, be supervised by qualified supervisors and have regular contact with supervisors who would review and discuss cases with the supervisee and direct the supervisee's patient therapy. The Board would limit the number of persons an individual could supervise at one time to ensure that the supervisor would be available to the supervisee. Finally, the Board would establish a minimum length of time with a minimum number of hours that a supervisee must work at any one supervised clinical experience setting. This would allow supervisees the flexibility of moving from one supervised experience setting to another while ensuring they are at one place long enough to develop relationships with their supervisors and patients as well as learn from their experience. The Board reviewed the State Board of Psychology's regulations in § 41.31(c)(1)(iii) (relating to qualifications for taking licensing examination) to arrive at the length of time and hours in this provision, because this is a board in a related field which also requires a supervised experience.

In drafting the proposal, the Board considered having all of the required 3,600 hours of supervised clinical experience supervised by a licensed clinical social worker. The Board decided that the first 1,800 hours of supervision would be provided by an individual who is a licensed clinical social worker. The remaining 1,800 hours could be provided by an individual who holds a license in a related field with 5 years of experience in that related field. Since it may be difficult to find enough licensed clinical social workers to provide supervision for all supervisees in remote areas of this Commonwealth, this proposal would

make it easier for supervisees to locate a supervisor. Additionally, allowing individuals licensed in other mental health fields to supervise would provide a broader experience for licensees. Finally, the Board received input from professional organizations and individuals suggesting that other mental health professionals be allowed to provide half of the supervision.

Proposed § 47.12d sets forth standards for supervisors. The Board believes that the supervised clinical experience should provide a quality learning experience for supervisees, which depends in part on the quality of supervision. In addition to providing that a supervisor should be qualified and accessible to the supervisee for consultation, as well as unbiased in their provision of services to the supervisee, this section provides guidance and direction to individuals regarding their duties and responsibilities as a supervisor. Section 47.12d also gives clear guidance to the supervisees regarding what they can and should expect from their supervisors. Finally, this section empowers the supervisor to recommend the interruption or termination of a supervised activity in providing services to a client/patient and if necessary to terminate the supervisory relationship. Unapproved hours would not count towards satisfying the clinical experience. This provision recognizes that there may be a situation in which the supervisor and the supervisee are not in the same work setting; therefore, the supervisor has no control over the supervised work outside of the supervisor/supervisee relationship. If the supervisor is uncomfortable with, or opposed to the supervisee's treatment plan for a patient, or suggests an alternative plan which the supervisee refuses to follow, the supervisor then has the option of not approving those hours for the clinical experience, or, if necessary, terminating the relationship with the supervisee.

Proposed § 47.13b, regarding exemption from licensure examination for clinical social workers, closely tracks the statutory language. This section would also establish a minimum number of work hours per week to satisfy the requirement of proof of practice of clinical social work and the criteria for continuing education which is satisfactory to the Board under section 1909(a)(4)(iii) of the act. Finally, this section lists the certifications acceptable to the Board for the purposes of this section.

Chapter 48. (relating to licensure of marriage and family therapists)

Section 1. Organization

The proposed addition tracks statutory language. The following chart indicates the organization and authority for the addition. For ease of reference, the first column contains the statutory citation, the second column contains the proposed regulatory citation and the third column contains the subject matter.

<i>STATUTE</i>	<i>PROPOSED REGULATION</i>	<i>SUBJECT MATTER</i>
Section 1903	§ 48.1 § 48.2 § 48.3	Definitions Educational requirements Qualifications for supervisor
Section 1907(e)(4)	§ 48.11	Examination
Section 1907(e)	§ 48.12	General qualifications for licensure

STATUTE	PROPOSED REGULATION	SUBJECT MATTER
Section 1907(e)	§ 48.13 § 48.14	Requirements for licensure Standards for supervisors
Section 1909(b)	§ 48.15	Exemption from licensure examination

Section 2. Substantive interpretations of proposed addition

Proposed § 48.1 (relating to definitions) would include definitions for “AAMFT,” “AMFTRB,” “accredited educational institution,” “act,” “Board,” “COAMFTE,” “doctoral degree in marriage and family therapy,” “field closely related to the practice of marriage and family therapy,” “graduate level coursework in marriage and family therapy acceptable to the Board,” “masters degree in marriage and family therapy,” “planned program of 60 semester hours or 90 quarter hours which is closely related to marriage and family therapy,” “program recognized by a National accrediting agency,” “supervisee,” “supervision” and “supervisor.”

The act makes numerous references to the provision “accredited institution.” There are no organizations in the field of marriage and family therapy that accredit institutions. Therefore, the Board defines an accredited institution as one accredited by a regional accrediting association recognized by the Council for Higher Education Accreditation (CHEA).

Section 48.1 also contains definitions for several different educational degrees and programs. These degrees and programs are found in the qualifications for licensure section of the act. When reviewing the educational requirements for licensure, an individual can refer to the definition section for the particular program or degree.

The act requires a supervised clinical experience as one of the qualifications for licensed marriage and family therapists. The Board believes supervision should be provided by an individual who is a licensed marriage and family therapist holding a certification from the American Association for Marriage and Family Therapy as an approved supervisor or supervisor-in-training, or by an individual who holds a license in a related field with 5 years of experience in that related field. The Board would allow for a 10-year period in which an individual may act as a supervisor so long as the individual is licensed, has received coursework in supervision and has 5 years experience as a marriage and family therapist.

Proposed § 48.2 (relating to educational requirements) lists the courses that would be required in the educational degrees, programs and graduate level coursework referred to in both the act and the proposed definitions section regarding qualification for licensure. There was much discussion amongst Board members, as well as input from professional organizations and individuals, regarding the need for establishing educational requirements for programs or requiring program accreditation. The alternative was to accept any program so long as it was from an accredited institution, regardless of program content. The Board considered several factors. First, social work programs must, by regulation, be accredited by the Council on Social Work Education (CSWE). Establishing educational criteria or requiring program accreditation for professional counselors and marriage and family therapists, would insure parity for all three licensure

groups under this licensing Board. Second, the Board believes that all programs should meet a minimum threshold level of education and training. Requiring accreditation or establishing educational requirements provides minimum standards and uniformity over time and across educational institutions holding students accountable to National standards. Consequently, the Board decided that it should require accreditation or establish educational requirements.

The Board believes that program accreditation is a plus, but not necessary. Program accreditation is a lengthy and expensive process, creating a burden on institutions as well as limiting the availability of programs for students. It chose instead to establish educational requirements for programs. The Board looked to the Commission on Marriage and Family Therapy Education for guidance as it is the only organization that approves programs. By adopting the educational requirements used by the Commission on Accreditation for Marriage and Family Therapy Education in its accreditation process, the programs would be more uniform, meet minimum standards and hold students accountable to National standards.

The educational requirements are in this section for clarity and easy guidance for both institutions and licensees. When reviewing the educational requirements for licensure, an individual can refer to the definition section for the particular program or degree, which would then refer the individual to this section.

Proposed § 48.3 (relating to qualifications for supervisor until January 1, 2010) sets forth the qualifications an individual must satisfy to act as a supervisor if the individual has not yet received certification as either an approved supervisor or supervisor-in-training. The Board believes that, at a minimum, the individual should be licensed as a marriage and family therapist, have 30 hours of coursework in marriage and family therapy supervision and have 5 years experience in marriage and family therapy.

Proposed § 48.11 (relating to licensure examination) sets forth the examination the Board would require for licensure. Currently there is only one examination, the National Marriage and Family Therapist Examination, offered by the Association of Marital and Family Therapy Regulatory Boards. This section also sets forth the procedure for taking the examination.

Proposed § 48.12 (relating to general qualifications for licensure) lists the more general qualifications for licensure, including moral character, conviction of a felony and the procedures for submitting an application.

Proposed § 48.13 (relating to licensed marriage and family therapist) lists the qualifications for licensure as a marriage and family therapist. This section tracks statutory language, and addresses examinations, educational requirements and supervised clinical experience. The Board believes it would be helpful to individuals to have these qualifications placed in the regulation, as well as the act for their convenience.

As discussed earlier, the Board decided to define the educational degrees and programs required for licensure as meeting certain educational requirements. To keep this section as clear as possible, the Board chose to define the educational degrees and programs in the definition section, with the educational requirements for those degrees and programs set out specifically in § 48.2. Otherwise, this section could very quickly become lengthy and cumbersome.

In addition to tracking the statutory language, this section sets forth the Board's requirements for the supervised clinical experience. (Supervised experience is also required for licensure of clinical social workers and professional counselors, and the provisions in this section of this chapter are repeated in the chapters for the other two licensure groups.) The Board's goal is to establish criteria that would ensure a quality learning experience for supervisees. Supervisees should receive experience in specific areas, be supervised by qualified supervisors and have regular contact with supervisors who would review and discuss cases with the supervisee and direct the supervisee's patient therapy. The Board would limit the number of persons an individual may supervise at one time to ensure that the supervisor is available to the supervisee. Finally, the Board would establish a minimum length of time with a minimum number of hours that a supervisee must work at any one supervised clinical experience setting. This allows supervisees the flexibility of moving from one supervised experience setting to another while ensuring they are at one place long enough to develop relationships with their supervisors and patients and learn from their experience. The Board looked to the State Board of Psychology's regulations in § 41.31(c)(1)(iii) to arrive at the length of time and hours in this provision, because this is a Board in a related field, which also requires a supervised experience.

The Board discussed having all of the required 3,600 hours of supervised clinical experience supervised by a licensed marriage and family therapist. After considering several factors, the Board decided that the first 1,800 hours of supervision would be provided by an individual who is a licensed marriage and family therapist with certification as an approved supervisor or supervisor-in-training. The remaining 1,800 hours could be provided by an individual who holds a license in a related field with 5 years of experience in that related field. Since it may be difficult to find enough licensed marriage and family therapists to provide supervision for all supervisees in remote areas of this Commonwealth, this provision would make it easier for supervisees to locate a supervisor. Additionally, allowing individuals licensed in other mental health fields to supervise would provide a broader experience for licensees. Finally, the Board received input from professional organizations and individuals suggesting that other mental health professionals be allowed to provide half of the supervision.

Proposed § 48.14 (relating to standards to supervisors) sets forth standards for supervisors. The Board believes that the supervised clinical experience should provide a quality learning experience for supervisees, which depends in part on the quality of supervision. In addition to providing that a supervisor should be qualified and accessible to the supervisee for consultation as well as unbiased in his provision of services to the supervisee, this section provides guidance and direction to individuals regarding their duties and responsibilities as a supervisor. Section 48.14 also gives clear guidance to the supervisees regarding what they can and should expect from their supervisors. Finally, this section empowers the supervisor to recommend the interruption or termination of a supervised activity in providing services to a client/patient and, if necessary, to terminate the supervisory relationship. Unapproved hours would not count towards satisfying the clinical experience. This provision acknowledges that there may be a situation in which the supervisor and the supervisee are not in the same work setting and therefore, the supervisor has no control over the supervised work outside of the supervisor/supervisee

relationship. If the supervisor is uncomfortable with, or opposed to the supervisee's treatment plan for a patient, or suggests an alternative plan which the supervisee refuses to follow, the supervisor then has the option of not approving those hours for the clinical experience and, if necessary, terminating the relationship with the supervisee.

Proposed § 48.15 (relating to exemption from licensure examination) regarding exemption from licensure examination for marriage and family therapists closely tracks the statutory language. This section would establish a minimum number of work hours per week to satisfy the requirement of proof of practice of marriage and family therapy and the criteria for continuing education satisfactory to the Board under section 1909(b)(4)(iii) of the act. This section also lists the professional certifications and examination acceptable to the Board for the purposes of this section.

Chapter 49. (relating to licensure of professional counselors)

Section 1: Organization

The proposed regulations track statutory language. The following chart indicates the organization and authority for the additions. For ease of reference, the first column contains the statutory citation, the second column contains the proposed regulatory citation and the third column contains the subject matter.

Professional Counselors

<i>STATUTE</i>	<i>PROPOSED REGULATION</i>	<i>SUBJECT MATTER</i>
Section 1903	§ 49.1 § 49.2	Definitions Educational requirements
Section 1907(f)(4)	§ 49.11	Examination
Section 1907(f)	§ 49.12	General qualifications for licensure
Section 1907(f)	§ 49.13 § 49.14	Requirements for licensure Standards for supervisors
Section 1909(c)	§ 49.15	Exemption from licensure examination

Section 2: Substantive interpretations of proposed addition

Proposed § 49.1 (relating to definitions) would include definitions for "accredited educational institution," "act," "Board," "CACREP," "CORE," "doctoral degree in a field closely related to the practice of professional counseling," "doctoral degree in professional counseling," "field closely related to the practice of professional counseling," "planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling," "supervisor," "supervision" and "supervisee."

The act makes numerous references to the provision "accredited educational institution." There are at least two National accrediting organizations in the counseling field: the Council on Rehabilitation Education (CRE) and the Council for Accreditation of Counseling and Related Education Programs (CACREP). The Board believes that program accreditation is a plus, but not necessary. Program accreditation is a lengthy and expensive process.

creating a burden on institutions as well as limiting the availability of programs for students. Therefore, the Board defines accredited educational institution as one which is accredited by a regional accrediting association recognized by CHEA, an accreditation already held by most institutions.

Section 49.1 also contains definitions for several different educational degrees and programs. These degrees and programs are found in the qualifications for licensure section of the act. When reviewing the educational requirements for licensure, an individual can refer to the definition section for the particular program or degree.

The act requires a supervised clinical experience as one of the qualifications for licensed professional counselors. The Board believes supervision should be provided by an individual who is a licensed professional counselor with 5 years experience, or by an individual who holds a license in a related field with 5 years of experience in that related field. The Board would allow for a 5-year period in which a supervisor may be an individual who is a professional counselor with 5 years experience as a professional counselor.

Proposed § 49.2 (relating to educational requirements) lists the courses that would be required in the educational degrees and programs referred to in both the act and the proposed definitions section regarding qualification for licensure. The Board received input from professional organizations and individuals, regarding the need for establishing educational requirements for programs or requiring program accreditation. The alternative was to accept any program so long as it was from an accredited institution, regardless of program content. The Board considered several factors. First, social work programs must, by regulation, be accredited by CSWE. Establishing educational criteria or requiring program accreditation for professional counselors and marriage and family therapists would insure parity for all three licensure groups under this licensing Board. Second, the Board believes that all programs should meet a minimum threshold level of education and training. Additionally, the counseling profession encompasses numerous branches and specialties. Requiring accreditation or establishing educational requirements provides minimum standards and uniformity over time and across educational institutions holding students accountable to National standards. Consequently, the Board decided that it should require accreditation or establish educational requirements.

The Board believes that program accreditation is a plus, but not necessary. Program accreditation is a lengthy and expensive process, creating a burden on institutions as well as limiting the availability of programs for students. It chose instead to establish educational requirements for programs. The Board looked to the curriculum requirements used by CRE and CACREP for guidance. These are well recognized accrediting organizations in his profession of counseling and thus a reliable, credible resource for the Board. The requirements of these two organizations were very similar. However, the Board decided to adopt the educational requirements used by CACREP. After a comparison of different programs with varying curriculum, the Board is satisfied that most counseling programs would satisfy the requirements established by the Board. Additionally, the Board asked professionals in related fields to review the educational requirements and was told that their programs would also be able to meet the Board's criteria. The educational requirements total 16 semester or 24 quarter hours out of a 60 semester hour or 90 quarter

hour program, and also includes 100 hours of supervised practicum experience and 600 clock hours of supervised internship experience. These basic requirements make up a small part of the overall planned program required for licensure, allowing the various programs and specialty degrees to continue to concentrate on their individual areas while ensuring that the programs would be more uniform, meet minimum standards and hold students accountable to National standards. The goal is to be as inclusive as possible in this diverse field, and yet maintain uniform, quality counseling programs for licensure.

The educational requirements are in this section for clarity and easy guidance to institutions and licensees. When reviewing the educational requirements for licensure, an individual can refer to the definition section for the particular program or degree, which would then refer the individual to this section.

Proposed § 49.11 (relating to licensure examination) sets forth the examinations the Board would require for licensure. Again, because of the diversity of this profession, there are numerous organizations and associations offering certifications and examinations. The Board discussed the various examinations available and found that one examination would not be sufficient. However, there are four examinations that are recognized Nationally and common to many of the varying disciplines and specialties, and therefore appropriate examinations for licensure. These are the National Counselor Examination, the Certified Rehabilitation Counselor Examination, the Art Therapy Credentials Board Certification Examination and the Board Certification Examination given by the Certification Board for Music Therapists. The Board did consider requests by the Northamerican Association of Masters in Psychology (NAMP) and other individuals to include that organization's National Certified Psychologist Examination. After review and discussion, the Board concluded that the examination for licensure as a professional counselor should be an examination in the professional counseling field and, consequently, the National Certified Psychologist Examination would not be an appropriate examination for licensure. The Board did determine that the NAMP certification and examination would be acceptable as a professional certification and National certification examination required as one of the qualifications for exemption from licensure examination. Section 49.11 also sets forth the procedure for taking the examination.

Proposed § 49.12 (relating to general qualifications for licensure) lists the more general qualifications for licensure including moral character, conviction of a felony and the procedures for submitting an application.

Proposed § 49.13 (relating to licensed professional counselor) lists the qualifications for licensure. This section tracks statutory language and addresses examinations, educational requirements and supervised clinical experience. The Board believes it would be helpful to individuals to have these qualifications placed in the regulations as well as the act for their convenience.

The Board decided to define the educational degrees and programs required for licensure as meeting certain educational requirements. To keep this section as clear as possible, the Board chose to define the educational degrees and programs in the definition section, with the educational requirements for those degrees and programs set out specifically in § 49.2. Otherwise, this section could very quickly become lengthy and cumbersome.

In addition to the statutory language, this section sets forth the Board's requirements for the supervised clinical

experience. (This supervised experience is also required for licensure of clinical social workers and marriage and family therapists, and the provisions in this section of this chapter are repeated in the chapters for the other two licensure groups.) The Board's goal is to establish criteria that would ensure a quality learning experience for supervisees. Supervisees should receive experience in specific areas, be supervised by qualified supervisors, and have regular contact with supervisors who would review and discuss cases with the supervisee and direct the supervisee's patient therapy. The Board would limit the number of persons an individual could supervise at one time to ensure that the supervisor is available to the supervisee. Finally, the Board would establish a minimum length of time with a minimum number of hours that a supervisee must work at any one supervised clinical experience setting. This would allow supervisees the flexibility of moving from one supervised experience setting to another while ensuring they are at one place long enough to develop relationships with their supervisors and patients and learn from their experience. The Board reviewed the State Board of Psychology's regulations in § 41.31(c)(1)(iii) to arrive at the length of time and hours in this provision, because this is a Board in a related field, which also requires a supervised experience.

The Board discussed having all of the required 3,600 hours of supervised clinical experience supervised by a licensed professional counselor. After considering several factors, the Board decided that the first 1,800 hours of supervision would be provided by an individual who is a licensed professional counselor. The remaining 1,800 hours could be provided by an individual who holds a license in a related field with 5 years of experience in that related field. Since it may be difficult to find enough licensed clinical social workers to provide supervision for all supervisees in remote areas of this Commonwealth, this provision would make it easier for supervisees to locate a supervisor. Additionally, allowing individuals licensed in other mental health fields to supervise would provide a broader experience for licensees. Finally, the Board received input from professional organizations and individuals suggesting that other mental health professionals be allowed to provide half of the supervision.

Proposed § 49.14 (relating to standards for supervisors) sets forth standards for supervisors. The Board believes that the supervised clinical experience should provide a quality learning experience for supervisees, which depends in part on the quality of supervision. In addition to providing that a supervisor should be qualified and accessible to the supervisee for consultation, as well as unbiased in their provision of services to the supervisee, this section provides guidance and direction to individuals regarding their duties and responsibilities as a supervisor. Section 49.14 also gives clear guidance to the supervisees regarding what they can and should expect from their supervisors. Finally, this section empowers the supervisor to recommend the interruption or termination of a supervised activity in providing services to a client/patient and, if necessary, to terminate the supervisory relationship. Unapproved hours would not count towards satisfying the clinical experience. This provision recognizes that there may be a situation in which the supervisor and the supervisee are not in the same work setting and therefore, the supervisor has no control over the supervised work outside of the supervisor/supervisee relationship. If the supervisor is uncomfortable with, or opposed to the supervisee's treatment plan for a patient, or suggests an alternative plan which the supervisee refuses to follow, the supervisor then has the option of not

approving those hours for the clinical experience and, if necessary, terminating the relationship with the supervisee.

Proposed § 49.15 (relating to exemption from licensure examination) regarding professional counselors closely tracks the statutory language. This section would establish a minimum number of work hours per week to satisfy the requirement of proof of practice of professional counseling; establish the criteria for continuing education which is satisfactory to the Board under section 1909(c)(4)(iii) of the act; and list the professional certifications and examinations acceptable to the Board for the purposes of this section. The Board chose these certifications and examinations because they are representative of the counseling profession and are comparable in their requirements for certification.

E. *Compliance with Executive Order 1996-1*

In compliance with Executive Order 1996-1, the Board extended the invitation to the following boards, associations and interested licensees and educators to preliminarily review and comment on the Board's draft regulatory proposal: California University of Pennsylvania Department of Counseling; Indiana University of Pennsylvania, Department of Counseling; Millersville University of Pennsylvania, Department of Counseling; Shippensburg University of Pennsylvania Department of Counseling; Slippery Rock University of Pennsylvania, Department of Counseling; West Chester University of Pennsylvania, Department of Counseling; Pennsylvania State University, Department of Counseling; Pennsylvania State University Erie-The Behrend College, Department of Counseling; University of Pittsburgh, Department of Counseling; MCP Hahnemann University, Department of Counseling; University of Pennsylvania, Department of Counseling; Beaver College Department of Counseling; Bucknell University, Department of Counseling; Eastern College Department of Counseling; James Gavin, National Association of Social Workers; ASWB; Morgan Plant/PA Alliance of Counseling; CSWE; Donna F. Derr, Ph.D., LSW, Director of Family and Community Education, Pennsylvania Society for Clinical Social Work; Edward Beck, Ed.D., CCMHC, NCC/Susquehanna Institute/East Shore Medical Center; David W. Hall, Ph.D. Associate Professor/Counseling/University of Scranton; John M. Sutton, Jr.; Robert C. Nielsen, President, American Association of State Counseling Boards; Sally J. Tice, Ph.D./The Marriage & Family Life Center; Donald B. Kaveny, Director/American Association of Marriage and Family Therapists; James T. Herbert, Ph.D., CRC; and Dr. Tom Trigwell.

The Board reviewed and considered all comments and suggestions received by these and other interested parties during the regulatory development process.

F. *Fiscal Impact and Paperwork Requirements*

These proposed amendments would have a fiscal impact and additional paperwork requirement on the Commonwealth in that there are three new licensure groups for which applications would be processed and fees would be received.

The proposed amendments should not require any legal, accounting or reporting requirements in the regulated community.

G. *Sunset Date*

The Board reviews the effectiveness of its regulations on an ongoing basis. 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)), the Board submitted a copy of these proposed amendments on March 13, 2001, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House of Professional Licensure Committee and the Senate Consumer Protection and Licensure Committee. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with 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.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days after the expiration of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed amendments to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to 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 Eva Cheney, Counsel, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, 116 Pine Street, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference number 16A-694 when submitting comments.

MANUEL MANOLIAS,
Secretary

Fiscal Note: 16A-694. 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 47. STATE BOARD OF SOCIAL WORK MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF SOCIAL WORKERS

GENERAL PROVISIONS

§ 47.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Act—The Social [**Workers' Practice**] **Workers, Marriage and Family Therapists and Professional Counselors Act** (63 P. S. §§ 1901—1922).

* * * * *

Licensed clinical social worker—A person who is currently licensed as a licensed clinical social worker under section 7 of the act (63 P. S. § 1907).

Licensed social worker—A person who is currently licensed as a licensed social worker under section [**3**] 7 of the act (63 P. S. § [**1903**]).

Provisional licensed social worker—A person who is currently licensed as a provisional licensed social worker under section [**3**] 7 of the act.

Supervisee—An individual who is fulfilling the supervised experience requirement for licensure as a clinical social worker.

Supervision—The act of overseeing, directing or instructing the activity or course of action of [**a provisional licensed social worker**] another.

Supervisor—An individual providing supervision to a supervisee and who is a clinical social worker licensed under the act or by a statutory board or social work examiner of another state, if, in the opinion of the Board, the requirements for licensure are substantially equivalent to the requirements of the act, and who has 5 years experience as a clinical social worker. Until January 1, 2006, a supervisor shall include an individual who is a clinical social worker with 5 years experience as a clinical social worker and is a licensed social worker. A supervisor may also include an individual who holds a license in a related field and who has 5 years experience in that field.

LICENSURE

§ 47.11. Licensure examination.

(a) The examination required as a prerequisite to original licensure as a licensed social worker is the **Association of Social Work Boards' (ASWB) (formerly known as the American Association of State Social Work Boards' (AASSWB))** intermediate level examination. [**It will be given annually and at other times deemed appropriate by the Board, in consultation with the third-party testing organization providing the examination to licensure applicants of the Board.**]

(b) The examination required as a prerequisite to being granted a license to hold oneself out as a social worker with a provisional license is the **ASWB (formerly known as AASSWB)** basic level examination. [**It will be given annually and at other times deemed appropriate by the Board, in consultation with the third-party testing organization providing the examination to provisional licensure applicants of the Board.**]

(c) The examination required as a prerequisite to being granted a license to hold oneself out as a licensed clinical social worker is the **ASWB (formerly known as AASSWB)** clinical level examination.

(d) The applicant shall apply to the testing organization for admission to the applicable licensure examination and shall pay the required fee at the direction of the testing organization.

[**(d) An applicant for admission to an examination shall submit an application to sit for the examination to the testing organization at least 60 days prior to the examination date. The application to sit for the examination may be obtained by contacting the Board by mail at: State Board of**

Social Work Examiners, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, or by telephone at: (717) 783-1389]

* * * * *

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

§ 47.12. Qualifications for licensure.

[(a)] General qualifications and requirements for applicants for licensure are as follows[.]:

* * * * *

(3) The applicant has submitted an application for licensure on forms furnished by the Board. The application for licensure may be obtained by contacting the Board by mail at: State Board of [Social Work Examiners] Social Workers, Marriage and Family Therapists and Professional Counselors, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, or by telephone at: (717) 783-1389 or by email at: socialwo@pados.state.pa.us.

* * * * *

(6) The applicant has submitted [a notarized affidavit or] an affirmation signed by the applicant verifying the information on the application.

[(b)] § 47.12a. Licensed social worker.

[(1)] (a) To be issued a license to hold oneself out as a licensed social worker, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

[(i)] (1) Satisfied the general requirements for licensure of [subsection (a)] § 47.12 (relating to qualifications for licensure).

[(ii)] (2) * * *

[(iii)] (3) * * *

[(2)] (b) * * *

[(3)] (c) * * *

[(c)] § 47.12b. Provisional license as a social worker.

[(1)] (a) To be issued a license to hold oneself out as a social worker with a provisional license, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

[(i)] (1) Satisfied the general requirements for licensure of [subsection (a)] § 47.12 (relating to qualifications for licensure)

[(ii)] (2) * * *

[(iii)] (3) * * *

[(iv)] (4) * * *

[(2)] (b) * * *

[(3)] (c) * * *

[(4)] (d) * * *

§ 47.12c. Licensed clinical social worker.

(a) Conditions for licensure. To be issued a license to hold oneself out as a licensed clinical social worker, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

(1) Satisfied the general requirements for licensure of § 47.12 (relating to qualifications for licensure).

(2) Holds a master's degree in social work or social welfare or a doctoral degree in social work from a school accredited by the Council on Social Work Education. An applicant who is a graduate of a foreign school shall submit to the Board an evaluation of foreign credentials performed by the Council on Social Work Education, which assesses the foreign credentials to be the equivalent of the curriculum policy of an accredited graduate school during the same time period, to be considered as meeting the requirements of having earned a master's degree in social work or social welfare from an accredited school.

(3) Is licensed under the act as a social worker.

(4) Passed the examination required by § 47.11 (relating to licensure examination).

(5) Completed at least 3 years or 3,600 hours of supervised clinical experience meeting the criteria in subsection (b) after completion of the master's degree in social work. Supervision for the clinical experience shall be provided by a supervisor as defined in § 47.1 (relating to definitions).

(b) Supervised clinical experience. Experience acceptable to the Board means experience as a supervisee in a setting that is organized to prepare the applicant for the practice of clinical social work consistent with the applicant's education and training.

(1) At least one-half of the experience shall consist of providing services in one or more of the following areas:

(i) Diagnosis.

(ii) Assessment.

(iii) Psychotherapy.

(iv) Other psychosocial-therapeutic interventions.

(v) Consultation.

(2) Supervision for the clinical experience shall be provided by a supervisor as defined in § 47.1. However, the first 1,800 hours shall be supervised by a licensed clinical social worker, or, until January 1, 2006, a clinical social worker with 5 years experience and who is a licensed social worker.

(3) A supervisee shall disclose his status as a supervisee to each patient and obtain written permission to discuss the patient's case with the supervisor.

(4) The supervisor shall delegate, order and control the clinical social work activities of the supervisee.

(i) A supervisor who is temporarily unable to provide supervision shall designate a qualified substitute. However, for the first 1,800 hours delegation shall be to another licensed clinical social worker,

or, until January 1, 2006, a clinical social worker with 5 years experience and who is a licensed social worker.

(ii) Although the supervisor shall continue to bear the ultimate responsibility for supervision, those to whom supervisory responsibilities are delegated shall be individually responsible for activities of the supervisee performed under their supervision.

(5) The supervisor, or one to whom supervisory responsibilities have been delegated, shall meet individually and in person with the supervisee for a minimum of 1 hour for every 20 hours of supervised clinical experience.

(6) A supervisor shall supervise no more than 6 supervisees at the same time. If this provision creates an undue hardship on a supervisee, the supervisor and supervisee may request an exception to this provision. The request shall state, in writing, the reasons why this provision creates a hardship on the supervisee and why the supervisee is not able to obtain a supervisor who meets the requirements of this provision. Before making a determination, the Board may require a personal appearance by the supervisee and supervisor.

(7) A supervisor who wishes to terminate supervision during the training period shall give the supervisee 60 days written notice to enable the supervisee to obtain another qualified supervisor. A supervisor may not terminate supervision when termination would result in abandonment of the supervisee's client/patients.

(8) Supervised work activity will be counted toward satisfying the experience requirement only if it takes place in a single setting for either, first, at least 30 hours per week but no more than 40 hours per week during at least a 3-month period or, second, at least 15 hours per week for a period of at least 6 months. The experience shall have been obtained within the most recent 10 calendar years, at least half within the most recent 5 calendar years.

§ 47.12d. Standards for supervisors.

Supervisors, and those to whom supervisory responsibilities are delegated, under § 47.12c(a)(5) (relating to licensed clinical social worker) shall comply with the standards in this section. Supervisors will be asked to attest to compliance on the verification of experience form which shall accompany the supervisee's application for licensure. The Board reserves the right to require a supervisor by documentation or otherwise to establish to the Board's satisfaction that compliance occurred.

(1) The supervisor shall be qualified by training and experience to practice in the supervisee's areas of supervised practice.

(2) The supervisor may not be a relative of the supervisee by blood or marriage, may not be involved in a dual relationship which obliges the supervisor to the supervisee and may not engage in treatment of the supervisee.

(3) An individual who is the subject of a disciplinary action by a licensing board will not qualify as a supervisor.

(4) The supervisor shall be responsible for ensuring that the requirements of § 47.12c(b) are met.

(5) The supervisor shall be accessible to the supervisee for consultation.

(6) The supervisor shall be empowered to recommend the interruption or termination of the supervisee's activities in providing services to a client/patient and, if necessary, to terminate the supervisory relationship. Any hours accumulated for activities not approved by the supervisor will not count towards satisfying the 3,600 hours of supervised experience.

(7) The supervisor shall ensure that the supervisee's status as a supervisee is made known to the supervisee's patients, and also ensure that the supervisee has obtained written permission from each patient to discuss his case with the supervisor.

(8) The supervisor shall establish objectives to be achieved by the supervisee during supervision.

(9) The supervisor shall review issues of practice and ethics with the supervisee.

(10) The supervisor shall maintain notes or records of scheduled supervisory sessions and provide these records to the Board upon request.

(11) The supervisor shall observe client/patient sessions of the supervisee or review recordings of these sessions on a regular basis.

(12) In supervisory meetings, the supervisor shall discuss the supervisee's level of work—for example, the supervisee's areas of competence and areas of needed improvement.

(13) The supervisor shall provide the supervisee with recommendations bearing on further professional development, professional study, and skills necessary for independent practice.

(14) The supervisor shall prepare written evaluations or reports of progress which shall delineate the supervisee's strengths and weaknesses. These evaluations or reports shall be discussed with the supervisee on at least a quarterly basis.

(15) The supervisor shall encourage the supervisee to work with professionals in other disciplines as indicated by the needs of each client/patient and shall periodically observe these cooperative encounters.

(16) The supervisor shall encourage the supervisee to access multidisciplinary consultation, as necessary.

§ 47.13. [Licensure without examination] (Reserved).

[A license shall be issued without examination to an applicant who meets the following requirements. The applicant shall have:

(1) Satisfied the general requirements for licensure of § 47.12(a) (relating to qualifications for licensure).

(2) Submitted an application provided by the Board and accompanied by the fee required by § 47.4 (relating to licensure fees) by October 7, 1989

(3) Received a master's degree in social work or social welfare from an accredited school or a doctoral degree in social work by October 7, 1987.

(i) Graduates of a foreign school of social work, may satisfy the requirement of this subsection if the applicant received an equivalency rating in compliance with § 47.12(b)(2).

(ii) An applicant who received a graduate or equivalent degree or certificate in social work or social welfare prior to July 1, 1952, may satisfy the requirements of this subsection if the applicant submitted an application for individual review by the Board in compliance with § 47.12(b)(3).

(4) Practiced social work for a cumulative period of 2 years.]

§ 47.13b. Exemption from licensure examination—clinical social workers.

A license will be issued without examination to an applicant who meets the following requirements. The applicant shall have:

(1) Satisfied the general requirements for licensure of § 47.12 (relating to qualifications for licensure).

(2) Submitted an application provided by the Board and accompanied by the required fee.

(3) Submitted an application by March 25, 2002.

(4) Demonstrated proof of practice of clinical social work for at least 5 of the 7 years immediately prior to the date of application for license and that the practice was conducted in this Commonwealth. To satisfy the practice of clinical social work requirement, the applicant's practice shall have consisted of at least 20 hours per week.

(5) Successfully met the educational requirements of section 9(a)(4) of the act (63 P. S. § 1909(a)(4)). Continuing education submitted by an applicant under section 9(a)(4)(iii) of the act shall meet the following requirements:

- (i) Master's level difficulty.
- (ii) Direct practice social work subject matter.
- (iii) Excludes courses in office management or practice building.

(6) Demonstrated holding the Board Certified Diplomat (BCD) certification issued by the American Board of Examiners in Clinical Social Work, or a Diplomate in Clinical Social Work (DCSW) certification or Qualified Clinical Social Worker (QSCW) certification issued by the National Association of Social Workers.

(Editor's Note: The following chapter is new. It has been printed in regular type to enhance readability.)

CHAPTER 48. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF MARRIAGE AND FAMILY THERAPISTS

GENERAL PROVISIONS

Sec. 48.1.	Definitions.
48.2.	Eduational requirements.
48.3.	Qualificaitons for supervisor until January 1, 2010.

LICENSURE

48.11.	Licensure examination.
48.12.	General qualifications for licensure.
48.13.	Licensed marriage and family therapist.
48.14.	Standards for supervisors.
48.15.	Exemption from licensure examination.

GENERAL PROVISIONS

§ 48.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AAMFT—The American Association for Marriage and Family Therapists

AMFTRB—The Association of Marital and Family Therapy Regulatory Boards.

Accredited educational institution—A graduate school which is recognized as an institution of higher education or which is accredited by a regional accrediting association recognized by the Council for Higher Education Accreditation.

Act—The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922).

Board—The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

COAMFTE—The Commission on Accreditation for Marriage and Family Therapy Education.

Doctoral degree in marriage and family therapy—A doctoral degree which is awarded upon successful completion of a program in marriage and family therapy which is either accredited by COAMFTE, or, which includes coursework that meets the criteria in § 48.2 (relating to educational requirements).

Field closely related to the practice of marriage and family therapy—Includes the fields of social work, counseling psychology, clinical psychology, educational psychology, counseling and child development and family studies.

Graduate level coursework in marriage and family therapy acceptable to the Board—Coursework that meets the criteria in § 48.2.

Institution of higher education—An independent institution of higher education, a community college, a State-related institution or a member institution of the State System.

Masters degree in marriage and family therapy—A master's degree which is awarded upon successful completion of a program in marriage and family therapy which is either accredited by COAMFTE, or, which includes coursework that meets the criteria in § 48.2.

Planned program of 60 semester hours or 90 quarter hours which is closely related to marriage and family therapy—A program which includes coursework that meets the criteria in § 48.2.

Program recognized by a National accrediting agency—A master, doctoral or postgraduate degree training program accredited by COAMFTE.

Supervisee—An individual who is fulfilling the supervised experience requirement for licensure.

Supervision—The act of overseeing, directing or instructing the activity or course of action of another.

Supervisor—An individual providing supervision to a supervisee who is a marriage and family therapist licensed under the act and has received certification as an approved supervisor or supervisor-in-training by the AAMFT. However, until January 1, 2010, an individual who meets all of the criteria in § 48.3 (relating to qualifications for supervisor until January 1, 2010) shall also be included as a supervisor. A supervisor may also

include an individual who holds a license in a related field and who has 5 years experience in that field.

§ 48.2. Educational requirements.

Educational requirements are as follows:

(1) *Human development* (3 courses minimum-9 semester or 12 quarter or 135 didactic contact hours).

(i) Courses in this area should provide knowledge of individual personality development and its normal and abnormal manifestations.

(ii) Coursework should cover human development across the life span, including special issues that affect an individual's development (that is, culture, gender and human sexuality).

(2) *Marriage and family studies* (3 courses minimum-9 semester or 12 quarter or 135 didactic contact hours). Courses in this area should be a fundamental introduction to systems theory.

(3) *Marriage and family therapy* (3 courses minimum-9 semester or 12 quarter or 135 didactic contact hours).

(i) Courses in this area should have a major focus of family systems theory and systemic therapeutic interventions.

(ii) This area is intended to provide a substantive understanding of the major theories of systems change and the applied practices evolving from each theoretical orientation.

(4) *Professional studies* (1 course minimum-3 semester or 4 quarter or 45 didactic contact hours).

(i) Courses in this areas are intended to contribute to the professional development of the therapist.

(ii) Areas of study should include the therapist's legal responsibilities and liabilities, professional ethics as a marriage and family therapist, professional socialization, and the role of the professional organization, licensure or certification legislation, independent practice and inter-professional cooperation.

(5) *Research* (1 course minimum-3 semester or 4 quarter or 45 didactic contact hours). Courses in this area should assist students in understanding and performing research.

(6) *Practicum* (minimum 1 year, 300 hours of supervised direct client contact with individuals, couples and families).

§ 48.3. Qualifications for supervisor until January 1, 2010.

Qualifications are as follows:

(1) The individual is a marriage and family therapist licensed under the act or by a statutory board of another state, if, in the opinion of the Board, the requirements for licensure are substantially equivalent to the requirements of the act.

(2) The individual has completed a 1-semester graduate course in MFT supervision (at least 30 contact hours) or the equivalent.

(3) The individual has 5 years experience as an MFT.

LICENSURE

§ 48.11. Licensure examination.

(a) The examination required as a prerequisite to being granted a license to hold oneself out as a licensed marriage and family therapist is the AMFTRB National MFT Examination. It will be given annually and at other

times deemed appropriate by the Board, in consultation with the third-party testing organization providing the examination to license applicants of the Board.

(b) The applicant shall apply to the testing organization for admission to the applicable licensure examination and shall pay the required fee at the direction of the testing organization.

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

(d) The passing grade for the examination will be determined by the Board.

§ 48.12. General qualifications for licensure.

General qualifications and requirements for applicants for licensure are as follows:

(1) The applicant is of good moral character.

(2) The applicant has not been convicted of a felony, which shall include a judgment, an admission of guilt or a plea of nolo contendere, under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or of an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless the following apply:

(i) At least 10 years have elapsed from the date of conviction.

(ii) The applicant satisfactorily demonstrates to the Board that the applicant has made significant progress in personal rehabilitation since the conviction, so that licensure of the applicant would not be expected to create a substantial risk of harm to the health and safety of the applicant's clients or the public or a substantial risk of further criminal violations.

(3) The applicant has submitted an application for licensure on forms furnished by the Board. The application for licensure may be obtained by contacting the Board by mail at: State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, (717) 783-1389 or by e-mail at: socialwopados.state.pa.us.

(4) The applicant has submitted the required application licensure fee by check or money order, payable to the "Commonwealth of Pennsylvania."

(5) The applicant has submitted two certificates of Recommendation on forms furnished by the Board.

(6) The applicant has submitted an affirmation signed by the applicant verifying the information on the application.

§ 48.13. Licensed marriage and family therapist.

(a) *Conditions for licensure.* To be issued a license to hold oneself out as a licensed marriage and family therapist, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

(1) Satisfied the general requirements for licensure in § 48.12 (relating to general qualifications for licensure).

(2) Passed the examination required by § 49.11 (relating to licensure examination).

(3) Successfully met one of the following educational requirements:

(i) By _____ (*Editor's Note:* The blank refers to a date 5 years after the effective date of adoption of this proposed rulemaking.), has completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework which is closely related to marriage and family therapy as defined in § 48.1 (relating to definitions), including one of the following:

(A) A master's degree in marriage and family therapy from an accredited educational institution.

(B) A master's degree in a field closely related to the practice of marriage and family therapy as defined in § 48.1 from an accredited educational institution, with graduate level coursework in marriage and family therapy as defined in § 48.1 and § 48.2 (relating to educational requirements) from an accredited educational institution or from a program recognized by a National accrediting agency as defined in § 48.1.

(ii) Successfully completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework which is closely related to marriage and family therapy as defined in § 48.1 including one of the following:

(A) A 48 semester hour or 72 quarter hour master's degree in marriage and family therapy from an accredited educational institution.

(B) A 48 semester hour or 72 quarter hour master's degree in a field closely related to the practice of marriage and family therapy as defined in § 48.1 with graduate level coursework in marriage and family therapy as defined in §§ 48.1 and 48.2 from an accredited educational institution or from a program recognized by a National accrediting agency as defined in § 48.1.

(iii) Holds a doctoral degree in marriage and family therapy as defined in §§ 48.1 and 48.2 from an accredited educational institution.

(iv) Holds a doctoral degree in a field closely related to marriage and family therapy as defined in § 48.1 from an accredited educational institution with graduate level coursework in marriage and family therapy as defined in §§ 48.1 and 48.2 from an accredited educational institution or from a program recognized by a national accrediting agency as defined in § 48.1.

(4) Has met the following experience requirements:

(i) Individuals who meet the education requirements of subsection (a)(3)(i) or (ii), shall have completed at least 3 years or 3,600 hours of supervised clinical experience meeting the criteria in subsection (b), obtained after the completion of 48 semester hours or 72 quarter hours of graduate coursework. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 48.1.

(ii) Individuals who meet the education requirements of subsection (a)(3)(iii) or (iv) shall have complete at least two years or 2,400 hours of supervised clinical experience which meets the criteria set forth in subsection (b), one year or 1,200 hours of which was obtained subsequent to the granting of the doctoral degree. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 48.1.

(b) *Supervised clinical experience*—Experience acceptable to the Board means experience as a supervisee in a setting that is organized to prepare the applicant for the practice of marriage and family therapy consistent with the applicant's education and training.

(1) At least one-half of the experience shall consist of providing services in one or more of the following areas:

(i) Assessment.

(ii) Couples therapy.

(iii) Family therapy.

(iv) Other systems interventions.

(v) Consultation.

(2) Supervision for the clinical experience shall be provided by a supervisor as defined in § 47.1 (relating to definitions). However, the first 1,800 hours shall be supervised by a licensed marriage and family therapist who has received certification as an approved supervisor or supervisor-in-training by AAMFT or, until January 1, 2010, a marriage and family therapist who meets all the criteria listed in § 48.3 (relating to qualifications for supervision until January 1, 2010).

(3) A supervisee shall disclose his status as a supervisee to each patient and obtain written permission to discuss the patient's case with the supervisor.

(4) The supervisor shall delegate, order and control the marriage and family therapy activities of the supervisee.

(i) A supervisor who is temporarily unable to provide supervision shall designate a qualified substitute. However, for the first 1,800 hours delegation must be to another licensed marriage and family therapist who has received certification as an approved supervisor by AAMFT or, until January 1, 2010, a marriage and family therapist who meets all the criteria listed in § 48.3.

(ii) Although the supervisor shall continue to bear the ultimate responsibility for supervision, those to whom supervisory responsibilities are delegated shall be individually responsible for activities of the supervisee performed under their supervision.

(5) The supervisor, or one to whom supervisory responsibilities have been delegated, shall meet with the supervisee for a minimum of 2 hours for every 40 hours of supervised clinical experience. At least 1 of the 2 hours shall be with the supervisee individually and in person, and at least 1 of the 2 hours shall be with the supervisee in a group setting and in person.

(6) A supervisor shall supervise no more than 6 supervisees at the same time. If this provision creates an undue hardship on a supervisee, the supervisor and supervisee may request an exception to this provision. The request shall state, in writing, the reasons why this provision creates a hardship on the supervisee and why the supervisee is not able to obtain a supervisor who meets the requirements of this provision. Before making a determination, the Board may require a personal appearance by the supervisee and supervisor.

(7) A supervisor who wishes to terminate supervision during the training period shall give the supervisee 60 days written notice to enable the supervisee to obtain another qualified supervisor. A supervisor may not terminate supervision when termination would result in abandonment of the supervisee's client/patients.

(8) Supervised work activity will be counted toward satisfying the experience requirement only if it takes place in a single setting for either, first, at least 30 hours per week but no more than 40 hours per week during at least a 3-month period or, second, at least 15 hours per week for a period of at least 6 months. The experience

shall have been obtained within the most recent 10 calendar years, at least half within the most recent 5 calendar years.

§ 48.14. Standards for supervisors.

Supervisors, and those to whom supervisory responsibilities are delegated, under § 48.13(a)(4) (relating to licensed marriage and family therapists) shall comply with this section. Supervisors will be asked to attest to compliance on the verification of experience form which shall accompany the supervisee's application for licensure. The Board reserves the right to require a supervisor by documentation or otherwise to establish to the Board's satisfaction that compliance occurred.

(1) The supervisor shall be qualified by training and experience to practice in the supervisee's areas of supervised practice.

(2) The supervisor may not be a relative of the supervisee by blood or marriage, may not be involved in a dual relationship which obliges the supervisor to the supervisee and may not engage in treatment of the supervisee.

(3) An individual who is the subject of a disciplinary action by a licensing Board will not qualify as a supervisor.

(4) The supervisor shall be responsible for ensuring that the requirements of § 48.13(b) are met.

(5) The supervisor shall be accessible to the supervisee for consultation.

(6) The supervisor shall be empowered to recommend the interruption or termination of the supervisee's activities in providing services to a client/patient and, if necessary, to terminate the supervisory relationship. Any hours accumulated for activities not approved by the supervisor will not count towards satisfying the 3,600 hours of supervised experience.

(7) The supervisor shall ensure that the supervisee's status as a supervisee is made known to the supervisee's patients, and also ensure that the supervisee has obtained written permission from each patient to discuss his case with the supervisor.

(8) The supervisor shall establish objectives to be achieved by the supervisee during supervision.

(9) The supervisor shall review issues of practice and ethics with the supervisee.

(10) The supervisor shall maintain notes or records of scheduled supervisory sessions and provide these records to the Board upon request.

(11) The supervisor shall observe client/patient sessions of the supervisee or review recordings of these sessions on a regular basis.

(12) In supervisory meetings, the supervisor shall discuss the supervisee's level of work—for example, the supervisee's areas of competence and areas of needed improvement.

(13) The supervisor shall provide the supervisee with recommendations bearing on further professional development, professional study and skills necessary for independent practice.

(14) The supervisor shall prepare written evaluations or reports of progress which shall delineate the supervisee's strengths and weaknesses. These evaluations or reports shall be discussed with the supervisee on at least a quarterly basis.

(15) The supervisor shall encourage the supervisee to work with professionals in other disciplines as indicated by the needs of each client/patient and shall periodically observe these cooperative encounters.

(16) The supervisor shall encourage the supervisee to access multidisciplinary consultation, as necessary.

§ 48.15. Exemption from licensure examination.

A license will be issued without examination to an applicant who meets the following requirements. The applicant shall have:

(1) Satisfied the general requirements for licensure of § 48.12 (relating to general qualifications for licensure).

(2) Submitted an application provided by the Board and accompanied by the required fee.

(3) Submitted an application by March 25, 2002.

(4) Demonstrated proof of practice of marriage and family therapy for at least 5 of the 7 years immediately prior to the date of application for license. To satisfy the practice of marriage and family therapy requirement, the applicant's practice shall have consisted of at least 15 hours per week, with 10 of those hours consisting of direct client contact.

(5) Have successfully met one of the following educational requirements:

(i) Have a doctoral degree in marriage and family therapy as defined in § 48.1 (relating to definitions) from an accredited educational institution.

(ii) Have a doctoral degree in a field closely related to the practice of marriage and family therapy as defined in § 48.1 from an accredited educational institution with graduate level coursework in marriage and family therapy acceptable to the Board as defined in § 48.1.

(iii) Have a master's degree of at least 48 semester hours or 72 quarter hours in marriage and family therapy as defined in § 48.1 from an accredited educational institution.

(iv) Have a master's degree of at least 48 semester hours or 72 quarter hours in a field closely related to marriage and family therapy as defined in § 48.1 from an accredited educational institution with graduate level course-work in marriage and family therapy acceptable to the Board as defined in § 48.1.

(v) Have a master's degree of less than 48 semester hours or 72 quarter hours but not less than 36 semester hours or 54 quarter hours in marriage and family therapy as defined in § 48.1 from an accredited educational institution and have within the past 10 years completed sufficient continuing education satisfactory to the Board to equal the number of hours needed to achieve a total of 48 semester hours or 72 quarter hours at a ratio of 15 continuing education hours equaling 1 semester hour. Continuing education satisfactory to the Board shall meet the following requirements:

(A) Masters level difficulty.

(B) Excludes courses in office management or practice building.

(C) Any course approved by AAMFT.

(vi) Have a master's degree of less than 48 semester hours or 72 quarter hours but not less than 36 semester hours or 54 quarter hours in a field closely related to the practice of marriage and family therapy as defined in § 48.1, from an accredited educational institution with graduate level coursework in marriage and family

therapy as defined in § 48.1 and have within the past 10 years completed sufficient continuing education satisfactory to the Board to equal the number of hours needed to achieve a total of 48 semester hours or 72 quarter hours at a ratio of 15 continuing education hours equaling 1 semester hour. Continuing education satisfactory to the Board shall meet the following requirements:

- (A) Masters level difficulty.
- (B) Excludes courses in office management or practice building.
- (C) Any course approved by AAMFT.
- (6) Demonstrated holding clinical membership status from AAMFT and passing the AMFTRB National MFT Examination or an examination given by another state as a requirement for licensure in that state.

(*Editor's Note:* The following chapter is new. It has been printed in regular type to enhance readability.)

CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS
GENERAL PROVISIONS

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LICENSE

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49.14.	Standards for supervisors.
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GENERAL PROVISIONS

§ 49.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Accredited educational institution—A graduate school which is recognized as an institution of higher education or which is accredited by a regional accrediting association recognized by the Council for Higher Education Accreditation.

Act—The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922).

Board—The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

CACREP—Council for Accreditation of Counseling and Related Programs.

CORE—Council on Rehabilitation Education.

Doctoral degree in a field closely related to the practice of professional counseling—A doctoral degree which is awarded upon successful completion of a program in a field closely related to the practice of professional counseling and which includes coursework that meets the criteria in § 49.2 (relating to educational requirements).

Doctoral degree in professional counseling—A doctoral degree which is awarded upon successful completion of a program which includes coursework that meets, and builds upon, the criteria in § 49.2.

Field closely related to the practice of professional counseling—Includes the fields of social work, clinical psychology, educational psychology, counseling psychology and child development and family studies.

Institution of higher education—An independent institution of higher education, a community college, a State-related institution or a member institution of the State System.

Planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling—A program which includes coursework that meets the criteria in § 49.2.

Supervisee—An individual who is fulfilling the supervised experience requirement for licensure.

Supervision—The act of overseeing, directing or instructing the activity or course of action of another.

Supervisor—An individual providing supervision to a supervisee who is a professional counselor licensed under the act and has 5 years experience as a professional counselor. However, until January 1, 2006, the term shall include an individual who is a professional counselor with 5 years experience as a professional counselor. A supervisor may also include an individual who holds a license in a related field and who has 5 years experience in that field.

§ 49.2. Educational requirements.

Education requirements are as follows:

(1) *Human growth and development*—(2 semester or 3 quarter hours) studies that provide an understanding of the nature and needs of individual at all developmental stages.

(2) *Social and cultural foundations*—(2 semester or 3 quarter hours) studies that provide an understanding of issues and trends in a multicultural and diverse society.

(3) *Helping relationships*—(2 semester or 3 quarter hours) studies that provide an understanding of counseling and consultation processes.

(4) *Group work*—(2 semester or 3 quarter hours) studies that provide an understanding of group development, dynamics, counseling theories, group counseling methods and skills and other group approaches.

(5) *Career and lifestyle development*—(2 semester or 3 quarter hours) studies that provide an understanding of career development and related life factors.

(6) *Appraisal*—(2 semester or 3 quarter hours) studies that provide an understanding of individual and group approaches to assessment and evaluation.

(7) *Research and program evaluation*—(2 semester or 3 quarter hours) studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research.

(8) *Professional orientation*—(2 semester or 3 quarter hours) studies that provide an understanding of all aspects of professional functioning including history, roles, organizational structures, ethics, standards and credentialing.

(9) *Clinical instruction*—(Includes 100 clock hours of supervised practicum experience and 600 clock hours of supervised internship experience). The supervised internship experience shall begin after completion of the supervised practicum experience.

LICENSURE

§ 49.11. Licensure examination.

(a) The examination required as a prerequisite to being granted a license to hold oneself out as a licensed professional counselor shall be one of the following:

(1) The National Counselor Examination for Licensure and Certification (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC)

(2) The Certified Rehabilitation Counselor (CRC) Examination administered by the Commission on Rehabilitation Counselor Certification (CRCC)

(3) The Art Therapy Credentials Board (ATCB) Certification Examination given by ATCB

(4) The Board Certification Examination given by the Certification Board for Music Therapists (CBMT).

(b) The applicant shall apply to the testing organization for admission to the applicable licensure examination and shall pay the required fee at the direction of the testing organization.

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

(d) The passing grade for the examination will be determined by the Board.

§ 49.12. General qualifications for licensure.

General qualifications and requirements for applicants for licensure are as follows:

(1) The applicant is of good moral character.

(2) The applicant has not been convicted of a felony, which shall include a judgment, an admission of guilt or a plea of *nolo contendere*, under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or of an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless the following apply:

(i) At least 10 years have elapsed from the date of conviction.

(ii) The applicant satisfactorily demonstrates to the Board that the applicant has made significant progress in personal rehabilitation since the conviction, so that licensure of the applicant would not be expected to create a substantial risk of harm to the health and safety of the applicant's clients or the public or a substantial risk of further criminal violations.

(3) The applicant has submitted an application for licensure on forms furnished by the Board. The application for licensure may be obtained by contacting the Board by mail at: State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, (717) 783-1389 or by e-mail at: socialwo@pados.state.pa.us.

(4) The applicant has submitted the application licensure fee required by the Board, by check or money order, payable to the "Commonwealth of Pennsylvania."

(5) The applicant has submitted two certificates of recommendation on forms furnished by the Board.

§ 49.13. Licensed professional counselor.

(a) *Conditions for licensure.* To be issued a license to hold oneself out as a licensed professional counselor, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

(1) Satisfied the general requirements for licensure of this subsection.

(2) Passed the examination required by § 49.11 (relating to licensure examination).

(3) Successfully met one of the following educational requirements:

(i) By _____ (*Editor's Note:* The blank refers to a date 5 years after the effective date of the adoption of this proposal.), has successfully completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling as defined in § 49.1 (relating to definitions) including one of the following:

(A) A master's degree in professional counseling from an accredited educational institution.

(B) A master's degree in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited educational institution.

(ii) Has successfully completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling as defined in § 49.1 including one of the following:

(A) A 48 semester hour or 72 quarter hour master's degree in professional counseling from an accredited educational institution.

(B) A 48 semester hour or 72 quarter hour master's degree in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited educational institution.

(iii) Holds a doctoral degree in counseling from an accredited educational institution.

(iv) Holds a doctoral degree in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited educational institution.

(4) Has met the following experience requirements:

(i) Individuals who meet the educational requirements of paragraph (3)(i) or (ii), shall have completed at least 3 years or 3,600 hours of supervised clinical experience meeting the criteria in subsection (b), obtained after the completion of 48 semester hours or 72 quarter hours of graduate coursework. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 49.1.

(ii) Individuals who meet the educational requirements of paragraph (3)(iii) or (iv) shall have completed at least 2 years or 2,400 hours of supervised clinical experience meeting the criteria set forth in subsection (b), 1 year or 1,200 hours of which was obtained subsequent to the granting of the doctoral degree. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 49.1.

(b) *Supervised clinical experience.* Experience acceptable to the Board means experience as a supervisee in a setting that is organized to prepare the applicant for the practice of counseling consistent with the applicant's education and training.

(1) At least one-half of the experience shall consist of providing services in one or more of the following areas:

(i) Assessment.

(ii) Counseling.

(iii) Therapy.

(iv) Psychotherapy.

(v) Other therapeutic interventions.

(vi) Consultation.

(2) Supervision for the clinical experience shall be provided by a supervisor as defined in § 49.1. The first 1,800 hours shall be supervised by a licensed professional

counselor, or, until January 1, 2006, a professional counselor with 5 years experience as a professional counselor.

(3) A supervisee shall disclose his status as a supervisee to each patient and obtain written permission to discuss the patient's case with the supervisor.

(4) The supervisor shall delegate, order and control the professional counseling activities of the supervisee.

(i) A supervisor who is temporarily unable to provide supervision shall designate a qualified substitute. However, for the first 1,800 hours delegation shall be to another licensed professional counselor, or, until January 1, 2006, a professional counselor with 5 years experience as a professional counselor.

(ii) Although the supervisor shall continue to bear the ultimate responsibility for supervision, those to whom supervisory responsibilities are delegated shall be individually responsible for activities of the supervisee performed under their supervision.

(5) The supervisor, or one to whom supervisory responsibilities have been delegated, shall meet individually and in person with the supervisee for a minimum of 1 hour for every 20 hours of supervised clinical experience.

(6) A supervisor shall supervise no more than 6 supervisees at the same time. If this provision creates an undue hardship on a supervisee, the supervisor and supervisee may request an exception to this provision. The request shall state, in writing, the reasons why this provision creates a hardship on the supervisee and why the supervisee is not able to obtain a supervisor who meets the requirements of this provision. Before making a determination, the Board may require a personal appearance by the supervisee and supervisor.

(7) A supervisor who wishes to terminate supervision during the training period shall give the supervisee 60 days written notice to enable the supervisee to obtain another qualified supervisor. A supervisor may not terminate supervision when termination would result in abandonment of the supervisee's client/patients.

(8) Supervised work activity will be counted toward satisfying the experience requirement only if it takes place in a single setting for either, first, at least 30 hours per week but no more than 40 hours per week during at least a 3-month period or, second, at least 15 hours per week for a period of at least 6 months. The experience shall have been obtained within the most recent 10 calendar years, at least half within the most recent 5 calendar years.

§ 47.14. Standards for supervisors.

Supervisors, and those to whom supervisory responsibilities are delegated under § 49.13(a)(4) (relating to licensed professional counselors) shall comply with this section. Supervisors will be asked to attest to compliance on the verification of experience form which shall accompany the supervisee's application for licensure. The Board reserves the right to require a supervisor by documentation or otherwise to establish to the Board's satisfaction that compliance occurred.

(1) The supervisor shall be qualified by training and experience to practice in the supervisee's areas of supervised practice.

(2) The supervisor may not be a relative of the supervisee by blood or marriage, may not be involved in a dual relationship which obliges the supervisor to the supervisee and may not engage in treatment of the supervisee.

(3) An individual who is the subject of a disciplinary action by a licensing Board will not qualify as a supervisor.

(4) The supervisor shall be responsible for ensuring that the requirements of § 49.13(b) are met.

(5) The supervisor shall be accessible to the supervisee for consultation.

(6) The supervisor shall be empowered to recommend the interruption or termination of the supervisee's activities in providing services to a client/patient and, if necessary, to terminate the supervisory relationship. Any hours accumulated for activities not approved by the supervisor will not count towards satisfying the 3,600 hours of supervised experience.

(7) The supervisor shall ensure that the supervisee's status as a supervisee is made known to the supervisee's patients, and also ensure that the supervisee has obtained written permission from each patient to discuss his case with the supervisor.

(8) The supervisor shall establish objectives to be achieved by the supervisee during supervision.

(9) The supervisor shall review issues of practice and ethics with the supervisee.

(10) The supervisor shall maintain notes or records of scheduled supervisory sessions and provide these records to the Board upon request.

(11) The supervisor shall observe client/patient sessions of the supervisee or review recordings of these sessions on a regular basis.

(12) In supervisory meetings, the supervisor shall discuss the supervisee's level of work—for example, the supervisee's areas of competence and areas of needed improvement.

(13) The supervisor shall provide the supervisee with recommendations bearing on further professional development, professional study and skills necessary for independent practice.

(14) The supervisor shall prepare written evaluations or reports of progress which shall delineate the supervisee's strengths and weaknesses. These evaluations or reports shall be discussed with the supervisee on at least a quarterly basis.

(15) The supervisor shall encourage the supervisee to work with professionals in other disciplines as indicated by the needs of each client/patient and shall periodically observe these cooperative encounters.

(16) The supervisor shall encourage the supervisee to access multidisciplinary consultation, as necessary.

§ 49.15. Exemption from licensure examination.

A license will be issued without examination to an applicant who meets the following requirements. The applicant shall have:

(1) Satisfied the general requirements for licensure of § 49.12 (relating to qualifications for licensure).

(2) Submitted an application provided by the Board and accompanied by the required fee.

(3) Submitted an application by March 25, 2002.

(4) Demonstrated proof of practice of professional counseling for at least 5 of the 7 years immediately prior to the date of application for license. To satisfy the practice of professional counseling requirement, the applicant's

practice shall have consisted of at least 15 hours per week with 10 of those hours consisting of direct client contact.

(5) Have successfully met one of the following educational requirements:

(i) Holds a doctoral degree in professional counseling from an accredited educational institution.

(ii) Holds a doctoral degree in a field closely related to the practice of professional counseling from an accredited educational institution.

(iii) Have a master's degree of at least 48 semester hours or 72 quarter hours in professional counseling or a field closely related to the practice of professional counseling from an accredited educational institution.

(iv) Have a masters degree of less than 48 semester hours or 72 quarter hours but not less than 36 semester hours or 54 quarter hours in professional counseling or a feild closely related to the practice of professional counseling and has within the past 10 years completed sufficient continuing education satisfactory to the Board to equal the number of hours needed to achieve a total of 48 semester hour or 72 quarter hours at a ratio of 15 continuing education hours equaling 1 semester hour. Continuing education satisfactory to the Board shall meet the following requirements:

(A) Masters level difficulty.

(B) Excludes courses in office management or practice building.

(C) Any course approved by NBCC, CRC, CBMT or ATCB, and which does not include a course in office management or practice building.

(6) Demonstrated holding one of the following:

(i) The National Certified Counselor (NCC) certification from the National Board for Certified Counselors (NBCC) and having passed the National Counselor Examination given by the NBCC.

(ii) The Certified Rehabilitation Counselor (CRC) certification from the Commission on Rehabilitation Counselor Certification (CRCC) and having passed the CRC Examination giving by the CRCC.

(iii) The Registered Art Therapist (ATR) certification from the the Art Therapy Credentials Board (ATCB) and having passed the Board Certification Examination given by the ATCB.

(iv) The Academy of Dance Therapists Registered certification (ADTR) from the American Dance Therapy Association (ADTA) and having passed the National Counselor Examination given by the National Board for Certified Counselors (NBCC).

(v) The Music Therapist-Board Certified certification from the Certification Board for Music Therapists (CBMT) and having passed the Board certification Examination given by the CBMT.

(vi) The Registered Drama Therapist (RDT) certification from the National Association for Drama Therapy (NADT) and having passed the National Counselor Examination given by the National Board for Certified Counselors (NBCC).

(vii) The Certified Clinical Mental Health Counselor (CCMHC) certification from the Academy of Certified Clinical Mental Health Counselors (ACCMHC) and having passed the credentialing examination given by ACCMHC.

(viii) The Nationally Certified Psychologist (NCP) certification from the Northamerican Association of Masters in Psychology (NAMPP), and having passed the Practice Exam of Psychological Knowledge given by NAMPP.

[Pa.B. Doc. No. 01-502. Filed for public inspection March 23, 2001, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

[4 PA. CODE CHS. 243 AND 245]

Retirement Contributions

The State Employees' Retirement Board (Board) proposes to amend §§ 243.6, 245.4, 245.5 and 245.6. The proposed amendments are being proposed to delete the restrictions for purchasing retirement credit, thereby allowing the costs of purchase to be deducted from the actuarial value of the retirement account.

This proposal was adopted by the Board at its meeting on October 25, 2000.

A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. *Contact Person*

For further information contact Sean Sanderson, Director of Communications, State Employees' Retirement System, 30 North Third Street, P. O. Box 1147, Harrisburg, PA, (717) 237-0261, or Brian E. McDonough, Deputy Chief Counsel, State Employees' Retirement System, 30 North Third Street, P. O. Box 1147, Harrisburg, PA, 17108-1147, (717) 237-0229. Information regarding submitting comments on this proposal appears in section H of this preamble.

C. *Statutory Authority*

This proposed rulemaking is being made under the authority of 71 Pa.C.S. § 5907(d) and (h) (relating to State Employees' Retirement Code) (code).

D. *Background and Purpose*

The Board is responsible for implementing the purchase of service provisions of the code, and a component of that purchase program is a method of paying for that purchase by eligible members, that is, their contributions. Although the code authorizes the contributions to be made in any manner agreed upon by the Board and member, the current regulations limit payment methods. Deletion of these regulations will restore the Board's statutory authority to authorize the actuarial debiting of the member's account as an agreed upon way to make these contributions.

The purpose of the proposed repeal of these restrictions is to permit the member and the Board to agree upon how member contributions for the purchase of service can be made. Members would still have the options of paying by lump sum or payroll deduction, but also would have the option to authorize an actuarial reduction in the value of their account to pay for the requested purchase. This would substantially reduce or eliminate out-of-pocket costs for members to avail themselves of service purchases authorized by the code. A sister agency, the Public School Employees' Retirement System (Retirement Sys-

tem), currently permits the actuarial reduction of school member accounts for service purchases. These regulatory repeals would enable the Board to offer similar opportunities to State employees.

E. *Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of these proposed amendments.

Benefits

These proposed amendments would benefit State employees eligible for service purchases under the code. By reducing the potential out-of-pocket costs to members with an offsetting actuarial reduction in the value of their accounts, easier access to statutorily authorized service purchases would ensue without any loss in the fiscal integrity of the Retirement System. Customer service would be improved together with a corresponding reduction in bookkeeping and recordkeeping to the extent that payroll deductions would be reduced.

Costs

There are no additional costs to the Commonwealth, its citizens or State employees associated with these amendments.

Compliance Costs

The proposed amendments are not expected to impose any additional compliance costs on State employees.

F. *Sunset Review*

Not applicable.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 12, 2001, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House State Government Committee and the Senate Finance Committee. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with 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.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Board 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 the portion of the proposed amendments to which an objection has been made. The Regulatory Review Act specifies detailed procedures for review by the General Assembly and the Governor of objections raised by IRRC prior to final publication of the amendments by the Board.

H. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding these proposed amendments to Sean Sanderson, Director of Communications, State Employees' Retirement System, P. O. Box 1147, Harrisburg, PA 17108-1147 (express mail: 30 North Third Street, 5th Floor, Harrisburg, PA 17108-1147). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board within 30 days of publication in the *Pennsylvania Bulletin*.

Electronic Comments—Comments may be submitted electronically to the Board at ssanderson@state.pa.us and must also be received by the Board within 30 days of publication in the *Pennsylvania Bulletin*. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

NICHOLAS J. MAIALE,
Chairperson

Fiscal Note: 31-1. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART X. STATE EMPLOYEES' RETIREMENT BOARD

CHAPTER 243. MEMBERSHIP, CREDITED SERVICE, CLASSES OF SERVICE AND ELIGIBILITY FOR BENEFITS

§ 243.6. **Creditable nonstate service.**

* * * * *

[(g) Creditable State and nonstate service—noncancellable purchase of. In all instances where creditable State or nonstate service may be purchased, any active member, by application, electing to purchase the service may not be permitted to cancel the purchase thereof once payment has been made by lump sum or the member has agreed, in writing, to payroll deductions upon such terms and conditions as provided in this part.]

CHAPTER 245. CONTRIBUTIONS

§ 245.4. **Member contributions for the purchase of credit for previous State service or to become a full coverage member.**

[(a)] * * *

* * * * *

[(b) Method of payment. The amount payable for the purchase of previous State service or to become a full coverage member shall be paid in a lump sum within 30 days of certification of the amount due or, in the case of an active member, may be paid through payroll deductions over a 1, 2, but not more than 3-year period, provided statutory interest at 4% annually is charged through the repayment period.]

§ 245.5. **[Contributions for the purchase of credit for creditable nonstate service] (Reserved).**

[(a) The payment for the purchase of nonintervening military service (not to exceed 5 years) or of total intervening military service, shall be made in a lump sum within 30 days after billing or, in the case of an active member, may be paid through payroll deductions over a 1, 2, but not more than, 3-year period, provided statutory interest at 4% annually is charged through the repayment period.

(b) The payment for the purchase of creditable nonstate service, other than military and magisterial service, shall be made in a lump sum within 30 days of billing; or in the case of an active member,

may be paid through payroll deductions over a 1, 2, but not more than, 3-year period, provided statutory interest at 4% annually is charged through the repayment period.]

§ 245.6. Incomplete payments.

* * * * *

[(c) *Incomplete payments under certain conditions.* In the event a member agrees to make payments for purchase of certain service, as provided in sections 5504 and 5505 of the code (relating to member contributions for the purchase of credit for previous State services or to become a full coverage member; and contributions for the purchase of credit for creditable nonstate service), and dies in

State service, or terminates State service before any payments are made, then the request for purchase of such service shall be cancelled, unless payment is made in a lump sum within 30 days after such event by the member or anyone acting on his behalf. In the event a member applies for the purchase of service and dies prior to a billing for such service being made, then his legally constituted representative may purchase such service by payment of a lump sum within 30 days after billing.]

[Pa.B. Doc. No. 01-503. Filed for public inspection March 23, 2001, 9:00 a.m.]
