

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND OCCUPATIONAL AFFAIRS

STATE BOARD OF MEDICINE

[49 PA. CODE CHS. 16 AND 18]

Licensure, Certification, Examination and Registration Fees

The State Board of Medicine (Board) amends §§ 16.13, 16.13a, 16.17 and 18.303 by revising certain application fees to read as set forth at 31 Pa.B. 2181 (April 21, 2001).

A. *Effective Date*

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

B. *Statutory Authority*

The final-form amendments are authorized under section 6 of the Medical Practice Act (act) (63 P. S. § 422.6), which directs the Board to establish fees by regulation. That same provision requires the Board to increase fees to meet or exceed projected expenditures if the revenues are not sufficient to meet expenditures over a 2-year period.

C. *Background and Purpose*

Section 6 of the act requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses of the Board are funded through biennial license renewal fees. Expenses related to applications or services which are provided directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee.

A recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs determined that current application and service fees do not accurately reflect the actual cost of processing applications and providing other services.

In final-form amendments, fees for the services identified would be adjusted to allocate costs to those who use the service or submit an application. The Board would continue to apportion its enforcement and operating costs to the general licensing population when the Board makes its biennial reconciliation of revenues and expenditures.

The final-form amendments also consolidate all fees under one section and eliminate references to Nationally established examination fees over which the Board has no control or involvement.

D. *Summary of Comments and Responses to Proposed Rulemaking*

Proposed rulemaking was published at 31 Pa.B. 2181 followed by a 30-day public comment period. The Board did not receive comments from the general public or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). However, the Board received a report from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC).

The HPLC and IRRC noted that, according to Annex A, the fee for biennial renewal as a drugless therapist appeared to increase from \$25 to \$35 and the fee for annual renewal of a graduate license appeared to increase from \$10 to \$15, although these increases were not shown in the description of proposed amendments in the proposed rulemaking.

The final-form amendments do not increase these fees. Rather, the amendments proposed at 31 Pa.B. 2181 contained typographical errors in the portion of the section being deleted by the proposed amendment. Currently, the fee for biennial renewal as a drugless therapist is \$35 and the fee for annual renewal of a graduate license is \$15.

The HPLC and IRRC also noted that the \$5 fee for registration of additional physician assistant supervisors appeared to be a new fee, but was not listed in the description of proposed amendments in the proposed amendments. This was an error; it should have been listed as a new fee. As noted in the fee report form, the current fee for registration of physician assistant supervisors will be reduced from \$55 to \$35, and the fee for additional physician assistant supervisors (beyond the one substitute included on the application form), will be \$5 each. The \$5 charge will cover the cost of staff time necessary to verify the licensure status of the proposed supervisor, verify the fee, enter the information into the computer system and issue an approval letter.

E. *Compliance with Executive Order 1996-1*

In accordance with Executive Order 1996-1, "Regulatory Review and Promulgation," in drafting and promulgating the amendments, the Board considered the least restrictive alternative to regulate costs for services requested by licensees and applicants.

F. *Fiscal Impact and Paperwork Requirements*

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

G. *Sunset Date*

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

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 27, 2001, the Board submitted a copy of the notice of proposed rulemaking published at 31 Pa.B. 2181, to IRRC and to the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Board has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on November 20, 2001, this final-form rulemaking was approved by the HPLC and deemed

approved by the SCP/PLC on November 27, 2001. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 6, 2001, and approved the final-form rule-making.

I. Contact Person

Further information may be obtained by contacting Joanne Troutman, Board Administrator, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1400.

J. Findings

The Board finds that:

(1) Public notice of the proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) These amendments do not enlarge the purpose of the proposed rulemaking published at 31 Pa.B. 2181.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing act identified in Part B of this Preamble.

K. Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 16, are amended by amending §§ 16.13 and 16.17 and by deleting §§ 16.13a and 18.303 to read as set forth at 31 Pa.B. 2181.

(b) The Board shall submit this order and 31 Pa.B. 2181 to the Office of General Counsel and to the Office of the Attorney General as required by law.

(c) The Board shall certify this order and 31 Pa.B. 2181 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

CHARLES D. HUMMER, Jr., M.D.
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 6998 (December 22, 2001).)

Fiscal Note: Fiscal Note 16A-4910 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 02-38. Filed for public inspection January 11, 2002, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 101]

Supplemental Unemployment Benefit Plan

The Department of Revenue (Department), under the authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7354), amends §§ 101.1 and 101.6 (relating to definitions; and compensation) to read as set forth in Annex A.

Purpose of Regulation

The final-form amendments provide an explanation of the meaning and scope of the exclusion from compensation in the Pennsylvania Income Tax Law section 301(d)(vi) of the TRC (72 P. S. § 7301(d)(vi)) for employer or labor union payments for supplemental unemployment programs. The final-form amendments also address the tax treatment of programs offered to provide supplemental benefits to employees terminated from service as a result of layoff, workforce reduction, plant closings or other involuntary terminations.

Explanation of Regulatory Requirements

Section 101.1 is amended by adding the definition of "supplemental unemployment benefit plan." Section 101.6 is amended by adding a new paragraph (14) relating to benefits payable under a supplemental unemployment benefit plan, under subsection (c) which enumerates what compensation does not mean or include. The numbering of this new paragraph was changed from the proposed rulemaking because of the Department's adoption of Regulation 15-402 at 30 Pa.B. 3938 (August 5, 2000), relating to payments for employee welfare benefit plans and cafeteria plans and because of the pending adoption of Regulation 15-413, relating to termination pay, severance pay and early retirement incentive programs.

Affected Parties

Persons receiving employer or labor union payments for supplemental unemployment programs may be affected by the final-form amendments.

Comment and Response Summary

Notice of proposed rulemaking was published at 30 Pa. B. 2236 (May 6, 2000). The proposed rulemaking is being adopted with changes as set forth to read in Annex A.

No comments were received from the public during the public comment period. No comments were received from the House and Senate Finance Committees. The Department did receive comments from the Independent Regulatory Review Commission (IRRC).

Amendments to the proposed rulemaking in response to comments are as follows:

(1) In its comments, IRRC questioned the use of the phrase "established or maintained by an employer or by an employee organization, or by both" in the definition of "supplemental unemployment benefit plan" and requested an explanation of how the phrase is consistent with section 301 of the TRC.

Labor unions are employee organizations; however, not all employee organizations are labor unions—for example, voluntary employees' beneficiary associations or employee representation committees. Section 301(d)(vi) of the TRC does not deal with payments made by employee organizations other than labor unions. To clarify the proposed rulemaking, the Department added the phrase "by an employer or labor union" to § 101.6(c)(14).

(2) IRRC also questioned the necessity of the phrase "under the plan" in subparagraphs (i) and (ii) of the definition of "supplemental unemployment benefit plan" as well as the use of the term "permanent" in subparagraph (i)(A). The Department reviewed these areas of the definition and determined that the language was not necessary and deleted it from the definition.

(3) In subparagraphs (i) and (ii) of the definition of "supplemental unemployment benefit plan," IRRC questioned what was meant by the phrase "or subject in any

manner to anticipation, assignment or pledge by." To clarify its intent, the Department amended the subparagraphs by deleting the phrase IRRC found unclear and adding language that more clearly explains the provision.

Amendments initiated during the Department's internal review of the final-form amendments are as follows:

(1) For clarity and to respond to questions raised by the public since the publication of the proposed rulemaking, the Department has revised the definition of "supplemental unemployment benefit plan" by adding a third necessary attribute that employer payments to provide benefits are paid to an independently controlled trust or pooled fund established or maintained for the purpose of funding or providing benefits under the plan.

(2) As referenced in the proposed rulemaking preamble, certain proposed amendments to § 101.6 would need to be reclassified with the adoption of Regulation 15-402. Because Regulation 15-402 was adopted at 30 Pa.B. 3938 and because of the pending adoption of Regulation 15-413, relating to termination pay, severance pay and early retirement incentive programs, proposed § 101.6(c)(9) was moved to paragraph (14). See 32 Pa.B. 253 (January 12, 2002).

Explanations to questions raised by IRRC:

(1) In subparagraph (i) of the definition of "supplemental unemployment benefit plan," IRRC questioned why the parenthetical phrase "(whether or not such separation is temporary)" was needed. The purpose of the parenthetical phrase is to make sure that it is clear that no distinction is to be drawn between a temporary layoff and a permanent termination of employment.

(2) In subparagraphs (i)(E) and (ii)(B)(III) within the definition of "supplemental unemployment benefit plan," the Department uses the phrases "similar circumstances" and "similar acts." In its comments, IRRC asked the Department to explain what criteria it will use to determine similarity. The determining factor in subparagraph (i)(E) is that the circumstance be beyond the control of the participant and in subparagraph (ii)(B)(III) it is that the act be within the control of the participant.

(3) In its comments, IRRC noted that § 101.6(c)(6) references supplemental unemployment benefits; however, the Department's proposal provides that supplemental unemployment benefits also be listed in a new paragraph (9). For clarity, IRRC suggested that the Department incorporate the provisions for supplemental unemployment benefits under one paragraph.

Section 101.6(c)(6) deals with the funding for supplemental unemployment benefit pay plans, not the actual supplemental unemployment benefit plan distributions. Conversely, proposed paragraph (9) (now paragraph (14)), deals with the actual distribution of benefits; therefore, the two paragraphs should remain separate.

(4) Given the definition of "supplemental unemployment benefit plan" in § 101.1, IRRC questioned why the qualifying phrase "whether payable on a periodic basis or in the form of cash, services or property" is needed in § 101.6(c).

The qualifying phrase questioned by IRRC is needed only if there might be some question whether aperiodic cash payments and benefits payable in the form of services or property are taxable. As the Department's position was previously that aperiodic cash payments and benefits payable in the form of services or property were taxable, the possibility for questions seems quite likely.

Fiscal Impact

The Department has determined that the final-form amendments will have no fiscal impact on the Commonwealth.

Paperwork

The final-form amendments will not require additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The amendments will become effective upon final-form publication in the *Pennsylvania Bulletin*. The final-form amendments are scheduled for review within 5 years of publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the final-form amendments is Anita M. Doucette, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 26, 2000, the Department submitted a copy of the notice of proposed rulemaking published at 30 Pa.B. 2236 to IRRC and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on November 20, 2001, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 6, 2001, and approved the final-form rulemaking.

Findings

The Department finds that:

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

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code Chapter 101, are amended by amending §§ 101.1 and 101.6 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

LARRY P. WILLIAMS,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 6998 (December 22, 2001).)

Fiscal Note: Fiscal Note 15-414 remains valid for the final adoption of the subject regulations.

(Editor's Note: The amendments adopted by the rule-making at 32 Pa.B. 253, have been consolidated into this Annex.)

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE V. PERSONAL INCOME TAX

CHAPTER 101. GENERAL PROVISIONS

§ 101.1. Definitions.

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

* * * * *

Limited plan of termination—A plan that has one or more of the following attributes:

(i) The plan, when begun, is scheduled to be complete on a certain date or upon the occurrence of one or more specified events.

(ii) The number, percentage or class of employees whose services are to be terminated are specified in advance of the employees' terminations of service.

(iii) The plan is otherwise temporary or limited.

* * * * *

Qualified annuity—An arrangement under which the payee is entitled to equal, or substantially equal, periodic payments, paid at least annually, for any of the following periods:

(i) The life of the participant, or, if applicable, the joint lives of the recipient and recipient's designated beneficiary.

(ii) The life expectancy of the participant, or, if applicable, the joint life expectancies of the recipient and recipient's designated beneficiary.

(iii) A period of at least 10 years.

* * * * *

Severance pay—A payment made upon separation from employment under:

(i) A plan which has both of the following attributes:

(A) Payments are not contingent solely upon an employee's retirement from service or being the same age as, or older than, the earliest retirement age under a qualifying retirement benefit plan or qualifying retirement income plan sponsored by the employer.

(B) Total payments cannot exceed twice the employee's annual compensation accruing during the year preceding the employee's termination.

(ii) A plan under which all payments to any plan participant are completed within 120 months of the participant's termination.

(iii) A plan under which no benefit is, or only reduced benefits are payable to, or can be taken, assigned, pledged or otherwise charged or dealt with by, any plan participant after the participant reaches normal retirement age or service.

(iv) A plan, including a stock bonus or profit-sharing plan formed by a trust that meets the requirements for qualification described in section 401 of the IRC (26 U.S.C.A. § 401) or employee stock ownership plan, with one or more of the following attributes:

(A) The amount of earnings on contributions (or allocations of contributions or earnings) and the amount of benefits are determined with regard to the current or accumulated profits or losses of the employer.

(B) The employer can contribute only in those years when it has current or accumulated profits.

(C) The employer's contributions can fluctuate depending on the level of its profits.

(D) The employer's contributions are made out of current or accumulated profits.

(E) Distributions are paid with respect to stock of a corporation which is held by an employee stock ownership plan.

(v) A plan under which the accrued benefit payable to each vested participant who does not die before the payment starting date is neither paid nor payable in the form of a qualified annuity.

(vi) A limited plan of termination.

* * * * *

Supplemental unemployment benefit plan—A plan established or maintained by an employer or by an employee organization, or by both, that has all of the following attributes:

(i) No benefit is payable to, or can be taken, assigned, pledged or otherwise charged or dealt with by, any plan participant except upon lay-off or involuntary separation from the employment of the employer (whether or not the separation is temporary) resulting directly from:

(A) A reduction in force.

(B) Plant closing.

(C) Change in organizational structure.

(D) Discontinuance of an operation.

(E) The participant's failure to meet or maintain standards of performance for the position due to inability to carry out the responsibilities of the position, health, obsolescence, failure to meet the changed responsibilities of the position or similar circumstance beyond the control of the participant.

(ii) No benefit is payable to, or can be taken, assigned, pledged or otherwise charged or dealt with by, any plan participant if the participant either:

(A) Voluntarily separates from service.

(B) Is separated or discharged from service for any of the following reasons:

(I) Refusal to accept another position with reasonably comparable compensation.

(II) The commission of illegal acts.

(III) Insubordination, failure or refusal to comply with rules or regulations or similar acts within the control of the participant.

(III) Employer payments to provide benefits are paid to an independently controlled trust or pooled fund established or maintained for the purpose of funding or providing benefits under the plan.

* * * * *

§ 101.6. Compensation.

(a) Compensation includes items of remuneration received, directly or through an agent, in cash or in property, based on payroll periods or piecework, for services rendered as an employee or casual employee, agent or officer of an individual, partnership, business or nonprofit corporation, or government agency. These items include salaries, wages, commissions, bonuses, stock options, incentive payments, fees, tips, dismissal, termination or severance payments, early retirement incentive payments and other additional compensation contingent upon retirement, including payments in excess of the scheduled or customary salaries provided for those who are not terminating service, rewards, vacation and holiday pay, paid leaves of absence, payments for unused vacation or sick leave, tax assumed by the employer, or casual employer signing bonuses, amounts received under employee benefit plans and deferred compensation arrangements, and other remuneration received for services rendered.

* * * * *

(c) Compensation does not mean or include any of the following:

* * * * *

(3) Federal old age insurance benefits payable under 42 U.S.C.A. § 401, Railroad Retirement Act benefits payable under 45 U.S.C.A. § 228 or § 231 or any retired or retainer pay of a member or former member of a uniformed service computed under 10 U.S.C.A. § 1401.

* * * * *

(13) Guaranteed payments to a partner for services rendered to the partnership.

(14) Benefits payable by an employer or labor union under a supplemental unemployment benefit plan, whether payable on a periodic basis or in the form of cash, services or property.

* * * * *

(m) For purposes of this section:

(1) A person who separated from service before satisfying superannuation requirements shall be deemed to be retired from service upon reaching retirement age, regardless of whether he has permanently and wholly withdrawn from active working life or not.

(2) The voluntary discontinuance of a plan within 3 years after it has taken effect, for any reason other than business necessity, will be evidence that the plan was temporary and limited.

[Pa.B. Doc. No. 02-39. Filed for public inspection January 11, 2002, 9:00 a.m.]

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 101]

Termination Pay, Severance Pay and Early Retirement Incentive Programs

The Department of Revenue (Department), under the authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7354), amends §§ 101.1 and 101.6 (relating to definitions; and compensation) to read as set forth in Annex A at 32 Pa.B. 252 (January 12, 2002).

Purpose of Regulation

The final-form regulations clarify the taxation of termination pay, severance pay, early retirement incentive programs and programs offered by employers to provide benefits to employees in addition to those in qualifying retirement plans upon separation from service.

The final-form regulations also interpret section 301(d) of the TRC (72 P. S. § 7301(d)) to mean that Federal insurance benefits paid under the Railroad Retirement Act and guaranteed payments to a partner of a partnership for services to the partnership are excluded from compensation.

Explanation of Regulatory Requirements

Section 101.1 is amended by adding the definitions of "limited plan of termination," "qualified annuity" and "severance pay" for use in the regulation. Section 101.6(a) is amended by updating the list of examples of compensation. Section 101.6(c)(3) is amended to reflect the Department's interpretation of the Pennsylvania Income Tax Law with regard to Federal insurance benefits paid under the Railroad Retirement Act. Text from § 101.6(a) is deleted and moved to § 101.6(c)(13). Section 101.6(c)(13) reflects the Department's interpretation of the Pennsylvania Income Tax Law with regard to guaranteed payments to a partner of a partnership for services to the partnership. The numbering of this new paragraph was changed from the proposed rulemaking because of the Department's adoption of Regulation 15-402 at 30 Pa.B. 3938 (August 5, 2002), relating to payments for employee welfare benefit plans and cafeteria plans.

Finally, subsection (m) is added to § 101.6 to explain superannuation requirements and the voluntary discontinuance of a plan. The lettering of this new subsection was changed from the proposed rulemaking because of the Department's adoption of Regulation 15-402.

Affected Parties

The final-form amendments could affect employers with early-out incentive programs and employees receiving severance pay.

Comment and Response Summary

Notice of proposed rulemaking was published at 30 Pa.B. 2371 (May 13, 2000). The proposed rulemaking is being adopted with changes as set forth in Annex A.

No comments were received from the public during the public comment period. No comments were received from the House and Senate Finance Committees. The Department did receive comments from the Independent Regulatory Review Commission (IRRC).

Amendments to the proposed rulemaking in response to comments are as follows:

(1) IRRC indicated that the phrase "in advance" in subparagraph (ii) of the definition of "limited plan of termination" was unclear and requested that the Department be more specific. In response to IRRC's request, the Department has amended the provision by adding an explanatory phrase that modifies "in advance" and provides the necessary clarity.

(2) In its comments, IRRC was unsure what was meant by the phrase "or subject in any manner to anticipation, assignment or pledge by" as it was used in subparagraph (iii) of the definition of "severance pay" in § 101.1 and asked the Department to explain its necessity. To clarify its intent, the Department amended the subparagraph by deleting the phrase IRRC found unclear and adding language that more clearly explains the provision.

Amendments initiated during the Department's internal review of the regulation are as follows:

(1) For clarity, the definition of "qualified annuity" was amended by adding the phrase "any of the following periods."

(2) The definition of "severance pay" was amended by adding the word "accruing" to clarify that the provision is referring to compensation accruing during the year.

(3) As referenced in the proposed rulemaking preamble, certain proposed amendments to § 101.6 would need to be reclassified with the adoption of Regulation 15-402. Regulation 15-402 was adopted at 30 Pa.B. 3938; therefore, proposed § 101.6(c)(10) has been moved to paragraph (13) and proposed § 101.6(e) has been moved to subsection (m).

Fiscal Impact

The Department has determined that the amendments will have no fiscal impact on the Commonwealth.

Paperwork

The final-form regulations will not require additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The final-form regulations will become effective upon publication in the *Pennsylvania Bulletin*. The final-form amendments are scheduled for review within 5 years of publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the final-form amendments is Anita M. Doucette, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 3, 2000, the Department submitted a copy of the notice of proposed rulemaking published at 30 Pa.B. 2371, to IRRC and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on November 20, 2001, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 6, 2001, and approved the final-form rulemaking.

Findings

The Department finds that:

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

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code Chapter 101, are amended by amending §§ 101.1 and 101.6 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

LARRY P. WILLIAMS

Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 6998 (December 22, 2001).)

Fiscal Note: Fiscal Note 15-413 remains valid for the final adoption of the subject regulation.

(Editor's Note: For the text of the amended regulation, see 32 Pa.B. 252.)

[Pa.B. Doc. No. 02-40. Filed for public inspection January 11, 2002, 9:00 a.m.]