

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]
Big Game

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 8, 2002, meeting, proposed the following change:

Amend § 141.41 (relating to general) to be consistent with the flintlock muzzleloading and muzzleloading seasons, to require hunters using muzzleloading rifles during other firearms deer seasons to use calibers .44 or larger as is currently required during the muzzleloading and flintlock muzzleloading seasons.

The proposed amendment will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed amendment is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed amendment was made public at the October 8, 2002, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until December 27, 2002.

1. Introduction

The Commission is proposing to amend § 141.41.

2. Purpose and Authority

Section 141.43 (relating to deer) requires individuals hunting during the muzzleloading and flintlock muzzleloading seasons to use guns using ammunition .44 caliber or larger. The proposed change will make the requirement uniform by imposing the restriction during all hunting seasons.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof, the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices. In addition, section 2102(d) of the code authorizes the Commission to promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used. This amendment was proposed under this authority.

3. Regulatory Requirements

The proposed amendment will require hunters carrying muzzleloaders to hunt deer outside of the muzzleloading season to use only muzzleloaders .44 caliber or larger. This is consistent with the existing .44 caliber restriction in muzzleloading and flintlock muzzleloading seasons.

4. Persons Affected

Hunters using muzzleloading rifles during bear and other firearms deer seasons will be affected by the proposed amendment.

5. Cost and Paperwork Requirements

Hunters who have hunted during bear and regular firearms deer seasons using muzzleloading firearms taking ammunition smaller than .44 caliber may need to get different firearms.

6. Effective Date

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

7. Contact Person

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

VERNON R. ROSS,
Executive Director

(Editor's Note: An amendment to § 141.41 will be codified in the December 2002 Pennsylvania Code Reporter.)

Fiscal Note: 48-149. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.41. General.

* * * * *

(b) *It is unlawful to:*

* * * * *

(3) Hunt for deer [,] or bear [or elk] through the use of any muzzleloading handgun, or any muzzleloading firearm that is not .44 caliber or larger.

* * * * *

[Pa.B. Doc. No. 02-2097. Filed for public inspection November 22, 2002, 9:00 a.m.]

STATE BOARD OF PODIATRY

[49 PA. CODE CH. 29]
Continuing Education

The State Board of Podiatry (Board) proposes to amend §§ 29.13, 29.60—29.65, 29.67 and 29.68 and add §§ 29.63a, 29.69 and 29.70 to read as set forth in Annex A.

A. Effective Date

The proposed rulemaking will take effect when published as final-form in the *Pennsylvania Bulletin*.

B. Statutory Authority

The proposed rulemaking is authorized under sections 9, 9.1 and 15 of the Podiatry Practice Act (act) (63 P. S. §§ 42.9, 42.9a and 42.15).

C. Background and Purpose

Section 9 of the act states the procedure that a licensee must follow to effectuate biennial registration of the license. One of the requirements is that the licensee must furnish "...satisfactory evidence that the applicant attended during the two preceding license years such hours of approved educational conferences as determined by the board by regulation."

Similarly, section 9.1 of the act states that "no applicant for a renewal registration shall be granted a registration for the ensuing biennial licensing period unless the applicant shall furnish to the board satisfactory evidence that he has attended not less than the required number of hours of approved educational conferences during the two intervening license years."

Section 15 of the act authorizes the Board to make reasonable rules and regulations as it deems necessary and proper to carry out the intent and purposes of the act within the scope of the act.

As a result of problems that occurred during the biennial renewal period ending December 31, 2000, the Board now proposes to amend its continuing education regulations to include a preapproved course provider. Currently, § 29.64 (relating to application for approval of educational conferences) states that "course applications shall be submitted to the Board for approval at least 60 days prior to the scheduled date of the proposed educational conference." However, the act gives the Board the authority and discretion to approve a course retroactively, by ratification. See section 9.1 of the act (stating that an "approved educational conference" shall be one "approved or ratified" by the Board). Therefore, a provider's failure to submit a course for approval at least 60 days prior to the scheduled course date does not necessarily preclude approval of that course. At each of its meetings, the Board has the task of sifting through numerous applications setting forth, at length, the course program and contents and voting whether to approve or disapprove the individual courses.

For the biennial period ending December 31, 2000, approximately nine continuing education providers filed applications for course approval with the Board after the October 18, 2000, Board meeting. The conferences had already taken place, but had not yet been approved as providing acceptable continuing education credits for the Board's licensees. Those applications could not be considered by the Board until the following meeting, which took place in January 2001, after the renewal period had already passed. This created an enormous problem for licensees who had relied on the credits they received from those conferences in order to effectuate their biennial registration.

The Board determined that licenses would be renewed for licensees whose applications were incomplete because they had taken a course that had not been approved by the Board. Those licensees' applications were collected and held pending the Board's January 2001 meeting. In the end, those courses were ratified by the Board at its January 2001 meeting and the licensees who relied on those courses renewed their licenses without any further problem. However, the Board was unable to exercise its statutory responsibility to review and approve continuing education courses.

To avoid this problem during the ensuing biennial renewal periods, the Board proposes amending its continuing education regulations to include a preapproved course provider.

D. Description of Proposed Amendments

Proposed § 29.60 (relating to definitions) defines "biennium," "certification," "clock hour" and "provider."

Proposed § 29.61 (relating to requirements for biennial renewal and eligibility to conduct educational conferences) adds the requirements for biennial renewal, emphasizing that it is the responsibility of the licensee to ensure that the licensee has met the required 30 hours of credit per biennium. Applicants for license renewal are required to provide to the Board a signed statement certifying that the licensee has complied with the continuing education requirements. In the past, the problems with noncompliance have arisen because licensees have not been diligent in complying with the Board's regulations that only courses approved by the Board will be accepted as continuing education credit. Additionally, subsection (a) informs the licensee that a maximum of 10 clock hours of computer/internet, self-study magazine or journal article courses will be accepted by the Board.

Sections 29.62 and 29.63 (relating to length of time of educational conferences; and curriculum of educational conferences) are amended to provide that educational conferences shall offer at least 1 hour of instruction, instead of the current 4 hours. This is intended to give both licensees and providers increased flexibility.

The most important addition to the Board's continuing education requirements is § 29.63a (relating to preapproved course provider). Courses or programs offered or approved by the Council on Podiatric Medical Education will be accepted by the Board for continuing education credit.

Section 29.64 amends the section for approval of educational conferences by having the applicant—licensee or provider—submit an application for program/course approval if the licensee chooses to attend a program that is not offered by the preapproved provider or if a provider would like to gain Board approval for a particular program it is offering. Section 29.64(b) is proposed to be amended by requiring detailed information about the prospective course. The Board felt that a copy of the program brochure or the course syllabus, or both, would be sufficient.

Section 29.65 (relating to compilation of official attendance list) would be deleted because, under section 9.1 of the act, "no applicant for a renewal registration shall be granted a registration for the ensuing biennial licensing period unless the applicant shall furnish to the board satisfactory evidence that he has attended not less than the required number of hours of approved educational conferences during the two intervening license years." It is the licensee's responsibility to show proof of attendance, not the course provider's responsibility.

Section 29.67 (relating to approval or disapproval of educational conferences) provides that the Board will notify the designated person stated on the application for course/conference approval as to the approval or disapproval of the application within 30 days of action taken by the Board at the next scheduled Board meeting. This amends the current regulation which requires the Board to take action on an application within 30 days of receipt of the application. The proposed amendment is necessary because the Board meets bimonthly. When an application for approval of an educational course or conference ar-

rives within a month subsequent to a meeting, the Board is unable to meet the current 30 day requirement because the Board meets every 60 days. With the proposed amendment, even if the application arrives right after a Board meeting, the Board has 30 days from the time of the next Board meeting to notify the designated person stated on the application whether or not the course/conference has been approved.

Section 29.68 (relating to continuing education exemptions) adds a provision allowing for waivers of the continuing education requirements for serious illness or other demonstrated hardship. In addition, a fee shall be assessed for review of waiver or extension requests. Section 29.13 (relating to fees) is amended to reflect this new fee.

Section 29.69 (relating to continuing education requirement for biennial renewal of inactive and lapsed licenses) states that a licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium. In addition, a fee of \$25 shall be assessed for reactivation of an inactive or lapsed license. This fee is reflected in § 29.13.

Section 29.70 (relating to disciplinary action authorized) notifies the licensee that submission of fraudulent information to the Board or failure to complete the required number of continuing education credits may result in disciplinary action.

E. Compliance with Executive Order 1996-1, "Regulatory Review and Promulgation"

In compliance with Executive Order 1996-1, in drafting and promulgating the proposed rulemaking, the Board considered the purpose and likely impact of this proposed rulemaking on the public and the regulated community. On May 31, 2001, the Board solicited comments and suggestions on the proposed rulemaking from the Pennsylvania Podiatric Medical Association and Temple University School of Podiatric Medicine. The Pennsylvania Podiatric Medical Association objected to preapproval of courses given by the American Medical Association and the American Osteopathic Association. The Board agreed to delete the two associations from the list of preapproved providers at its November 28, 2001, meeting. The Board also considered Temple University's request that colleges of podiatric medicine be added to the list of preapproved providers but did not agree to make the addition.

F. Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector. To the contrary, having preapproved course providers would reduce the amount of paperwork. Course providers would no longer need to file applications for Board approval which are currently processed by Board staff.

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 November 7, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the

Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1. 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 rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, 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 this proposed rulemaking to Gina Bittner, Board Administrator, State Board of Podiatry, P. O. Box 2649, Harrisburg, PA 17105-2649, gbittner@state.pa.us within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

JEFFREY S. GERLAND, D.P.M.,
Chairperson

Fiscal Note: 16A-446. 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 29. STATE BOARD OF PODIATRY LICENSES

§ 29.13. Fees

(a) The schedule of fees charged by the Board is as follows:

	* * * * *	
Review of continuing education waiver or extension requests		\$50
Review of reinstatement of license requests following inactive or expired status		\$25

CONTINUING EDUCATION

§ 29.60. Definitions.

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

Biennium—The period from January 1 of an odd-numbered year to December 31 of the next even-numbered year.

Certification—A statement signed by the licensee certifying that continuing education requirements have been met along with information and documentation relative to the course.

Clock hour—Educational conferences will be approved for continuing education credit at the rate

of one credit per 60 minutes of instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.

Provider—An agency, organization, institution, association or center approved by the Board to offer an organized course or program.

§ 29.61. [Hours of credit] Requirements for biennial renewal and eligibility to conduct educational conferences.

(a) [An applicant for biennial registration shall offer proof that:

(1) For the January 1987 renewal period, the applicant has completed 16 hours of continuing education credit in conferences approved by the Board.

(2) For and after the January 1989 renewal period, the applicant has completed 30 hours of continuing education credit in conferences approved by the Board.] As a condition of biennial renewal of a license, a licensee shall have completed 30 clock hours of continuing education during the preceding biennium in acceptable courses and programs in podiatry by approved providers. It is the responsibility of the licensee to ensure that credits used to comply with this continuing education requirement have been approved by the Board. Excess clock hours may not be carried over to the next biennium. A maximum of 10 clock hours of computer/Internet, magazine or journal article courses, which are approved by the Council on Podiatric Medical Education, shall be accepted by the Board.

(b) [Colleges, universities, podiatry associations or other groups] Providers approved by the Board are eligible to conduct educational conferences.

(c) Applicants for license renewal shall provide, on forms approved by the Board, a signed statement certifying that the continuing education requirements have been met and information to document their certification, including the following:

- (1) The date attended.
- (2) The clock hours claimed.
- (3) The title of the course or program and description of content.
- (4) The provider which sponsored the course or program.
- (5) The location of the course or program.
- (d) The licensee shall retain documentation of completion of the prescribed number of clock hours for 5 years which shall be produced upon demand by the Board or its auditing agents.

§ 29.62. Length of time of educational conferences.

(a) Educational conferences shall offer at least [4 hours] 1 hour of instruction.

(b) Educational conferences will be approved for continuing education credit at the rate of one credit per clock hour of [applicable] instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.

§ 29.63. Curriculum of educational conferences.

(a) [At least 4 hours of educational conference shall be devoted to covering at least four of the

following basic subjects:] Basic subjects for educational conferences may include: anatomy, physiology, bacteriology, mycology, pharmacy, chemistry, X-ray, surgery, preoperative care, postoperative care, biomechanics, pathology, dermatology, and law and podiatry.

* * * * *

§ 29.63a. Preapproved course provider.

Courses or programs offered or approved by the Council on Podiatric Medical Education will be accepted for continuing education credit. All courses shall fall within the scope of podiatry practice. The Board will not approve courses or programs, or portions thereof, in office management or in marketing the practice.

§ 29.64. Application for approval of educational conferences.

The Board may approve other continuing education courses or programs for credit so long as the applicant submits an application furnished by the Board for program approval in compliance with the following:

[(a)] (1) Course applications shall be submitted to the Board for approval at least 60 days prior to the scheduled date of the proposed educational conference. [Courses shall be approved prior to the solicitation of a student for the conference or the publication of an announcement pertaining to the conference.

(b)] (2) The application shall [contain the following information:] include a copy of the full program brochure or the course syllabus, or both. Further information may be required and shall be submitted in a timely fashion.

[(1) Full name and address of eligible institution or organization.

(2) Title of the program.

(3) Dates for the proposed conference.

(4) Location of the proposed conference.

(5) Identification of the conference and lecturers, including name, title or affiliation, professional degree, and colleges or institutions in which the lecturers have given instruction. If the lecturers are not associated with approved schools, a memo concerning their professional activities and achievements shall be submitted.

(6) A schedule of the proposed conference which includes the title and brief description of each subject to be presented and the lecturer or panel to present the subject, specifying the time allotted thereto.

(7) The total number of educational hours included in the conference, excluding coffee breaks, lunches, visits to exhibits, and the like.

(8) The signature of the chief executive officer, secretary, or registrar of the eligible institution or organization, that is, the person who will authenticate the attendance at the educational conferences.

(9) The name and address of the person designated to receive the official notification of the action of the Board upon the application.]

[(c)] (3) ***

§ 29.65. [Compilation of official attendance list] (Reserved).

[(a) The group, organization, or institution sponsoring an educational conference shall be responsible for designating an authorized representative to authenticate attendance and compile an official attendance list of Pennsylvania licensees in attendance at their conference.

(b) It shall be the responsibility of the authorized representative to submit an official attendance list to the Board Office within 30 days following the final day of the conference.]

§ 29.67. Approval or disapproval of educational conferences.

(a) The Board will notify [the designated person stated on the application] an applicant for course approval as to the approval or disapproval of the application within 30 days of [receipt of the application by the Board] action taken by the Board at the next scheduled Board meeting.

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§ 29.68. Continuing education exemptions.

(a) Continuing education credits are not required for the years in which a licensed and currently registered podiatrist is in active military service or engaged in an American Podiatry Association approved Podiatric Residency Program.

(b) The Board may waive all or a portion of the continuing education requirement for biennial renewal upon request of a licensee for serious illness

or other demonstrated hardship. The request shall be made in writing, contain supporting documentation, and shall include a description of circumstances sufficient to show why compliance is impossible. A waiver request will be evaluated by the Board on a case-by-case basis. The Board will send written notification of its approval or denial of a waiver request.

(c) A fee shall be assessed for review of waiver or extension requests in accordance with § 29.13 (relating to fees).

§ 29.69. Continuing education requirement for biennial renewal of inactive and lapsed licenses.

(a) A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium as required in § 29.61 (relating to requirements for biennial renewal).

(b) A fee will be assessed for review of reinstatement of license requests following inactive or expired status in accordance with § 29.13 (relating to fees).

RECIPROCAL LICENSURE

§ 29.70. Disciplinary action authorized.

A licensed podiatrist who submits a false report or fails to complete the required number of continuing education credits may be subject to disciplinary action.

[Pa.B. Doc. No. 02-2098. Filed for public inspection November 22, 2002, 9:00 a.m.]