

STATEMENTS OF POLICY

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

[49 PA. CODE CH. 43b]

Schedule of Civil Penalties

The Commissioner of Professional and Occupational Affairs (Commissioner) adopts a statement of policy establishing additional civil penalty schedules to read as set forth in Annex A.

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (63 P. S. § 2205(a))(act) authorizes the Commissioner, after consultation with the licensing boards and commissions in the Bureau of Professional and Occupational Affairs (Bureau), to adopt a schedule of civil penalties for (1) operating without a current, registered, unsuspended and unrevoked license, registration, certificate or permit; and (2) violating any provision of an act or regulation of a licensing board or commission within the Bureau relating to the conduct or operation of a business or facility licensed by a licensing board or commission. Under section 5(a) of the act, the Commissioner adopts the schedule of penalties by publishing the schedule in the *Pennsylvania Bulletin* and within 2 years thereafter promulgating the schedule as a regulation.

The Commissioner has previously adopted civil penalty schedules under section 5(a) of the act for 11 licensing boards and commissions within the Bureau. These schedules, as well as guidelines and procedures for their implementation, have been codified as final regulations in accordance with the act in Chapter 43b (relating to Commissioner of Professional and Occupational Affairs).

Since promulgation of regulations establishing schedules of civil penalties for the 11 licensing boards, the Commissioner has consulted with other licensing boards.

Six additional boards have requested that the Commissioner adopt a schedule of penalties for certain violations of their enabling statutes. The statement of policy set forth in Annex A establishes civil penalty schedules for the following six additional boards: State Board of Certified Real Estate Appraisers; State Board of Examiners in Speech-Language and Hearing; State Board of Examiners of Nursing Home Administrators; State Board of Nursing; State Board of Occupational Therapy Education and Licensure and State Board of Medicine.

Prior to adoption of the civil penalty schedules, the Commissioner's representative consulted with the respective boards, who then approved the civil penalty schedules set forth in Annex A.

The civil penalty schedules set forth in Annex A are effective upon publication in the *Pennsylvania Bulletin* and apply to acts, omissions or violations occurring on and after the date of publication.

(Editor's Note: The regulations of the Department of State, Bureau of Professional and Occupational Affairs, are amended by adding statements of policy in 49 Pa. Code §§ 43b.15—43b.20 to read as set forth in Annex A.)

BASIL L. MERENDA,
Commissioner

Fiscal Note: 16-29. 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 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.15. Schedule of civil penalties—certified real estate appraisers—statement of policy.

STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

Violation under 63 P. S.

Violation under 63 P. S.	Title/Description	Civil Penalty
Section 457.3	Holding oneself out as a State-certified real estate appraiser without current, valid appraiser certification	1st offense—\$500 2nd offense—formal action
Section 457.3	Performing real estate appraisal without current, valid appraiser certification	1st offense—\$500 2nd offense—formal action
Section 457.13	Failing to report multiple certifications on biennial renewal application	1st offense—\$100 2nd offense—\$250
Section 457.13	Failing to report disciplinary action taken by another jurisdiction on the biennial renewal application or within 90 days of disposition, whichever is sooner	1st offense—\$500 2nd offense—\$1,000
Section 458.8	Performing valuation of real property for ad valorem tax purposes without current, valid Certified Pennsylvania Evaluator (CPE) certification	1st offense—\$500 2nd offense—formal action

**Violation Under
49 Pa. Code
Chapter 36**

	Title/Description	Civil Penalty
Section 36.13(a)(3)(iii)	Failing to ensure that appraiser assistant signs appraisal document as assistant to certified real estate appraiser	1st offense—\$250 2nd offense—\$500
Section 36.51	Failing to retain workfile for period required under Uniform Standards of Professional Appraisal Practice (USPAP) Ethics Rule on recordkeeping	1st offense—\$250 2nd offense—\$500
Section 36.51	Failing to identify type of appraisal report under USPAP Standards Rule 2-2	1st offense—\$250 2nd offense—\$500
Section 36.52	Failing to place name, signature, title and appraiser certification number on appraisal report or appraisal agreement	1st offense—\$125 2nd offense—\$250
Section 36.91(c)	Practicing on an expired appraiser certification	1st offense 0—5 mos.—\$250 6—12 mos.—\$500 Over 12 mos.—formal action 2nd offense—formal action
Section 36.265	Failing to place name, signature, title and CPE certification number on appraisal report	1st offense—\$125 2nd offense—\$250
Section 36.271(c)	Practicing on expired CPE certification	1st offense 0—5 mos.—\$250 6—12 mos.—\$500 Over 12 mos.—formal action 2nd offense—formal action

§ 43b.16. Schedule of civil penalties—audiologists, speech-language pathologists and teachers of the hearing impaired—statement of policy.**STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE AND HEARING****Violation under
63 P. S.**

	Title/Description	Civil Penalty
Section 1706	Practicing as an audiologist, speech-language pathologist, or teacher of the hearing impaired on a lapsed license	1st offense 0—12 mos.—\$50 per month; Over 12 months—formal action 2nd offense—formal action

§ 43b.17. Schedule of civil penalties—nursing home administrators—statement of policy.**STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS****Violation under
63 P. S.**

	Title/Description	Civil Penalty
Section 1114.1	Practicing nursing home administration on a lapsed license	0 to 12 months—\$80 per month Over 12 months—formal action 2nd offense—formal action

§ 43b.18. Schedule of civil penalties—nurses—statement of policy.**STATE BOARD OF NURSING****Violation under
63 P. S.**

	Title/Description	Civil Penalty
Section 225.4	Practicing professional nursing on a lapsed license	1st offense 0—12 mos.— \$100 per month up to \$1,000; over 12 months—formal action 2nd offense—formal action
Section 664(4)	Practicing practical nursing on a lapsed license	1st offense 0—12 mos.—\$75 per month; over 12 months—formal action 2nd offense—formal action

**Violation under
63 P. S.**

Section 225.4

Title/Description

Holding oneself out as a licensed dietitian-nutritionist on a lapsed license

Civil Penalty1st offense
0—12 months—\$100 per month
up to \$1,000;
over 12 months—formal action
2nd offense—formal action**§ 43b.19. Schedule of civil penalties—occupational therapists and occupational therapy assistants—
statement of policy.****STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE****Violation under
63 P. S.**

Section 1506(a)

Title/Description

License Required—Practicing or indicating the ability to practice occupational therapy by person never licensed

Civil Penalty0 to 4 months—\$50 per month
over 4 months to 8 months—
\$100 per month
9 months and over—\$200 per
month, up to total of \$1,000

Section 1513(b)

Use of title occupational therapist or licensed occupational therapist or the letters O.T./L., O.T.R./L., L./O.T. or L./O.T.R. by person never licensed or not holding a current license

1st offense—\$500
2nd offense—\$1,000

Section 1513(c)

Use of words occupational therapy assistant or licensed occupational therapy assistant or the letters C.O.T.A./L., O.T.A./L., L./C.O.T.A. or L./O.T.A. by person never licensed or not holding a current license.

1st offense—\$500
2nd offense—\$1,000

Section 1515(a)

Renewal of license—Practicing on a lapsed license

0 to 4 months—\$50 per month
over 4 months to 8 months—
\$100 per month
9 months and over—\$200 per
month, up to total of \$1,000**§ 43b.20. Schedule of civil penalties—physicians and other board regulated practitioners—statement of
policy.****STATE BOARD OF MEDICINE****Violation under
40 P. S.**

1303.903(1)

Title/Description

Failure of physician to report to the Board within 60 days of the occurrence of any of those events enumerated in Section 903(1) of the Medical Care Availability and Reduction of Error (Mcare) Act.

Civil Penalty

Each offense—\$1,000

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