

# PROPOSED RULEMAKING

## STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11]

### Revision of and Deletion of Existing Regulations

The State Board of Accountancy (Board) proposes to amend Chapter 11 to read as set forth in Annex A.

#### *Purpose*

The proposed rulemaking is intended to provide a general updating and streamlining of the Board's regulations consistent with the current provisions of the CPA Law (act) (63 P. S. §§ 9.1—9.16b), which was extensively amended by the act of December 4, 1996 (P. L. 851, No. 140) (Act 140). A separate rulemaking will be submitted regarding continuing education requirements and the expiration date of licenses. Previous rulemakings implemented statutorily mandated regulations regarding peer review at 30 Pa.B. 6194 (December 2, 2000), commissions and referral fees at 31 Pa.B. 147 (January 13, 2001), addressed fees for Board services at 30 Pa.B. 6344 (December 9, 2000), continuing education program sponsors at 31 Pa.B. 151 (January 13, 2001) and the certified public accountant (CPA) examination at 34 Pa.B. 1768 (April 3, 2004).

The proposed rulemaking would revise regulations for consistency with the act and for clarification of certain practice issues; delete regulations that are obsolete or redundant of provisions of the act; and make editorial and organizational changes to the regulations.

#### *Description of the Proposed Rulemaking*

§ 11.1 (relating to definitions). Section 11.1 defines words and phrases used in Chapter 11. The proposed rulemaking would delete the definitions of "attest function," "Board," "contingent fee," "firm," "inactive status," "licensee," "practice of public accounting" and "Professional Corporation Law." Editorial changes are made to the definitions of "Act" and "C.P.A."

Proposed amendments to other regulations would eliminate the need for definitions of "Professional Corporation Law" and "attest function" and would incorporate the definition of "contingent fee" into the single regulation where the term appears. Section 2 of the act (63 P. S. § 9.2) already sets forth updated definitions of "Board," "firm," "licensee" and "public accounting." "Inactive status" does not currently appear in any regulation.

§ 11.3 (relating to applicability of general rules). Section 11.3 provides that the Board's formal proceedings are governed by 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The proposed rulemaking would delete this section as unnecessary because it repeats language in section 9 of the act (63 P. S. § 9.9).

§ 11.5 (relating to temporary practice in this Commonwealth). Section 11.5 relates to the temporary practice of public accounting in this Commonwealth by a licensee of another state. Subsection (a) lists the requirements for issuance of a temporary practice permit. Subsection (b) describes the scope of a temporary practice permit. Subsection (c) provides that a licensee who does not meet the requirements for a temporary practice permit must sat-

isfy the requirements for full licensure to practice public accounting in this Commonwealth. Subsection (d) identifies those activities that do not require possession of a temporary practice permit.

The proposed rulemaking would revise subsection (a) to be consistent with the authorizing language for a temporary permit in section 13(b) of the act (63 P. S. § 9.13(b)) and to clarify that an applicant for a temporary practice permit must not personally maintain an office in this Commonwealth. Many applicants for temporary practice permits are members of National or regional public accounting firms that have offices in this Commonwealth. The proposed rulemaking also would make editorial changes to subsections (a) and (b). The proposed rulemaking would delete subsections (c) and (d) as unnecessary. The alternatives to a temporary practice permit—that is, normal certification and licensure by examination or certification and licensure without examination through domestic reciprocity—are set forth in sections 3.1, 5 and 8.2 of the act (63 P. S. §§ 9.3a, 9.5 and 9.8b). Likewise, section 13(c) of the act adequately addresses the scope of permissible activities not requiring possession of a license or temporary practice permit.

§ 11.6 (relating to supervised experience). Section 11.6(a) prescribes the manner in which qualified experience for CPA certification must be supervised. Subsection (b) gives examples of unacceptable experience. The proposed rulemaking would relocate the contents of subsections (a) and (b) to § 11.56 (relating to verification of experience) and § 11.55 (relating to qualified experience), respectively.

§§ 11.7 and 11.8 (relating to use of the designation "public accountant" and the abbreviation "PA"; and use of the designation "certified public accountant" and the abbreviation "CPA" in the practice of public accounting). Subsection (a) of each regulation identifies the categories of individuals and entities that may use the designation and abbreviation. Subsection (b) of each regulation prescribes unlawful use by individuals and entities that are not currently licensed to practice public accounting. Subsection (c) of each regulation gives examples of unlawful use. Subsection (d) of each regulation identifies the disciplinary provisions of the act that are implicated by unlawful use.

The proposed rulemaking would delete §§ 11.7 and 11.8 as essentially redundant of the act. Section 12(a), (c) and (j) of the act (63 P. S. §§ 9.12(a), (c) and (j)) adequately address which individuals and entities are permitted to use the designations "certified public accountant" and "public accountant" and the abbreviations "CPA" and "PA." The act defines public accounting, in part, as performing or offering to perform an accounting-related activity while holding out as a CPA or public accountant (PA). Because section 12(q) of the act makes it unlawful to practice public accounting without a current license, it is unnecessary state in the regulations that a current license is required to use a designation or title in the practice of public accounting. It is likewise unnecessary for the regulations to give examples of unlawful use of designations and abbreviations under the act or to reference provisions in the act that set forth disciplinary remedies for unlawful use.

§ 11.9 (relating to use of the designation "certified public accountant" and the abbreviation "CPA" by holders of a certificate of certified public accountant who do not

*maintain current licensure and are not engaged in the practice of public accounting*). Section 11.9(a) sets forth the conditions under which the holder of a certificate of CPA who does not possess a current license to practice public accounting may use the designation "certified public accountant" and the abbreviation "CPA" solely as a mark of achievement on business cards and stationery. The conditions stipulate that the certificateholder must not be under suspension or revocation; notify the Board in writing that the certificateholder wishes to be placed on the inactive roll; be employed in private industry, government or academia; refrain from practicing public accounting or offering to practice public accounting; refrain from advertising as a CPA and from publicly displaying a CPA certificate in a manner to suggest the certificateholder is engaged in the practice of public accounting; and identify the certificateholder's employer and job title on the stationery and business cards that bear the designation "certified public accountant" or the abbreviation "CPA." Subsection (b) gives examples of unlawful use and subsection (c) identifies the disciplinary provisions of the act that are implicated by unlawful use.

The proposed rulemaking would revise subsection (a), consistent with section 12(a) of the act, to provide that an individual who has received written notification from the Board that he is qualified to receive a certificate of CPA may also use the designation "certified public accountant" and the abbreviation "CPA" subject to the same conditions as an actual certificateholder. The proposed rulemaking would broaden the scope of permissible usage in subsection (a) to include an individual's résumé or curricula vitae, when accompanied by language reflecting that the individual's license is inactive, and a self-employed individual's business cards and stationery when accompanied by wording describing the nature of the individual's business. The amendments to subsection (a) also would restate the conditions of use with greater clarity and less verbiage. Finally, the proposed rulemaking would delete subsections (b) and (c), neither of which provides information that cannot be gleaned from subsection (a) or from the act.

*§ 11.21 (relating to independence)*. Section 11.21 provides that a licensee may not issue an opinion on the financial statements of an enterprise as an independent PA if the licensee's independence with respect to the enterprise is impaired. Section 11.21 sets forth the circumstances under which a licensee's independence is considered impaired. The independence requirements of § 11.21 are based on the interpretations of Professional Standards Rule 101 of the American Institute of Certified Public Accountants (AICPA).

The proposed rulemaking would modify § 11.21 to provide that a licensee's independence is considered impaired if the licensee failed to comply with the independence rules and requirements of the recognized public or private standard-setting body that are applicable to the attest engagement. Standard-setting bodies include the AICPA, the Securities and Exchange Commission, the General Accounting Office and the Department of Labor. The Board is making this amendment because the AICPA independence rule may not include all the requirements of other regulatory agencies with jurisdiction over attest activities.

*§ 11.25 (relating to contingent fees)*. Section 11.25(a) prohibits a licensee from collecting, or seeking to collect, a contingent fee for performing a professional service during any period in which the licensee has also been engaged to perform an attest activity for the client, or for

preparing an original or amended tax return or a claim for a tax refund. Subsection (b) provides that documents generated during an engagement in which the licensee is collecting a contingent fee must contain a statement that no attest activity is being performed.

The proposed rulemaking would relocate the definition of "contingent fee" that appears in § 11.1 to new § 11.25(c). The definition, which is derived from AICPA Professional Standards Rule 302, states that a contingent fee is a fee established for the performance of a service under an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the fee is otherwise dependent on the outcome or result of the service. The proposed rulemaking also would include a provision in subsection (c) that clarifies, consistent with AICPA Professional Standards Rule 302, that a fee is not considered contingent if it is fixed by a judicial or other government authority or, in tax matters, if it is determined based on the results of judicial proceedings or the findings of government agencies. Thus, it would be possible for a licensee, in filing an amended tax return for a client that seeks a refund, to collect a fee calculated upon a percentage of the refund if the refund is based on a soon-to-be-decided test case or a developing position of the Internal Revenue Service. The proposed rulemaking also would revise terminology in subsections (a) and (b) for consistency with the act.

*§ 11.27 (relating to auditing standards and other technical standards)*. Section 11.27 requires a licensee who performs an audit of financial statements as an independent PA to comply with generally accepted auditing standards and other technical standards and to provide justification for any departures from the standards. The proposed rulemaking would make editorial changes to § 11.27.

*§ 11.28 (relating to accounting principles)*. Section 11.28 prohibits a licensee from expressing an opinion that financial statements are presented in conformity with generally accepted accounting principles (GAAP) if the financial statements contain any departure from GAAP that has a material effect on the financial statements as a whole, unless compliance with GAAP would otherwise result in a misleading statement. The licensee must justify any departures from GAAP. The proposed rulemaking would make editorial changes to § 11.28.

*§ 11.30 (relating to confidential client information)*. Section 11.30 provides that a licensee may not disclose a client's confidential information without the client's consent except as authorized by section 11.1 of the act (63 P. S. § 9.11a), regarding privileged communications. The proposed rulemaking would delete § 11.30 as duplicative of section 11.1 of the act.

*§ 11.31 (relating to records)*. Section 11.31 requires a licensee to furnish a client or a former client with certain types of documents, such as a tax return, if the request for the documents is made within a reasonable time after their original issuance. The proposed rulemaking would delete this language as duplicative of section 11 of the act (63 P. S. § 9.11), regarding ownership and production of records. The proposed rulemaking would add a provision requiring a licensee who is requested by a client or former client to furnish documents to which the client is entitled under section 11 of the act to comply with the request within a reasonable period of time. Section 11 of the act does not address the timeliness of a licensee's response to a request for production of records.

*§ 11.35 (relating to form of practice)*. Section 11.35 provides that a licensee may practice public accounting

only in a sole proprietorship, partnership or professional corporation or association. The proposed rulemaking would delete § 11.35 as inconsistent with the current act, which contemplates that a licensee may practice as a sole practitioner or as part of any "qualified association" that is licensed as a firm. "Qualified association" is broadly defined in section 2 of the act to include not only partnerships, professional corporations and professional associations, but also limited liability companies and limited liability partnerships.

§ 11.36 (*relating to business name*). Section 11.36 is added to complement section 12(l.3) of the act, which prohibits a licensee from using a business name that is misleading as to any matter, including the identity of principals, members and employees. Subsection (a) would permit a firm or sole practitioner to use a fictitious name as a business name. The pre-1997 version of the act prohibited a firm that was a professional corporation from using a fictitious name. Subsection (b) would prohibit a sole practitioner from using a business name with the phrases "and Company" or "and Associates" unless he employs at least one other individual who is currently licensed as a CPA or PA, who has sat for the CPA examination or who has the educational qualifications to sit for the CPA examination. The pre-1997 version of the act prohibited a sole practitioner from using the phrase "and Company" or similar designation in his business name unless the name had been in use before November 1, 1961. Because the phrases "and Company" and "and Associates" imply at least the existence of a multi-member practice (if not a formal entity such as a partnership or professional corporation), the Board believes a sole practitioner's use of these terms is misleading if he is the only professional-level member of the practice. The terms are not misleading so long as the sole practitioner has at least one professional-level employee.

§ 11.41 (*relating to professional corporations and associations liability requirements*). Section 11.41 sets forth professional liability insurance and unimpaired capital requirements for licensed professional corporations and professional associations that were mandated under sections 8.4(7) and 8.6(7) of the act (63 P. S. §§ 9.8d(7) and 9.8f(7)), which were repealed by Act 140 effective February 3, 1997. Accordingly, the proposed rulemaking would delete § 11.41 as obsolete.

§§ 11.53 and 11.54 (*relating to classification of candidates; and time limits*). Section 11.53 sets forth the number of years of qualified experience that CPA candidates must acquire, depending on whether they possess a master's degree or a bachelor's degree only. Section 11.54 expresses each year of qualified experience in terms of hours in a 12-month period, limits the number of qualified hours that may be obtained during a 12-month period and requires qualified experience to have been acquired during the 60-month period preceding the date of application for CPA certification.

The proposed rulemaking would relocate the contents of §§ 11.53 and 11.54 to § 11.55, except for the 60-month limitation on the acquisition of qualified experience, which would be deleted as inconsistent with the act. Section 4.1(c) of the act (63 P. S. § 9.4a(c)), which was added by Act 140, provides that an individual taking the CPA examination for the first time after January 1, 2000, must have acquired qualified experience for CPA certification within 120 months preceding the date of application for certification. Section 4.1(c) of the act further provides that an individual who initially took the CPA examination before January 1, 2000, is not subject to any time limitation in acquiring qualified experience.

§ 11.55. Section 11.55(a) and (b) sets forth the types of qualified experience in attest activities and nonattest activities, respectively, that an individual can acquire to satisfy the experience requirement for CPA certification. Section 11.55(c) lists types of unacceptable experience.

The proposed rulemaking would relocate to subsection (a) the contents of §§ 11.53 and 11.54, as revised for consistency with the experience requirements in section 4.1 of the act. The proposed rulemaking would move the types of qualifying attest and nonattest activities to subsections (b) and (c), respectively, while providing a more specific breakdown of qualifying attest activities depending on whether the candidate is employed in public accounting, private industry or government. The proposed rulemaking would revise the descriptions of certain types of qualifying activities and would eliminate "training" on the attest function as an acceptable alternative to actual participation in an attest activity. The proposed rulemaking would combine into a new subsection (d) examples of unacceptable experience from subsection (c) and from § 11.6. The proposed rulemaking also would rename § 11.55 as "Experience requirements for CPA certification."

§ 11.56. Section 11.56(a) provides that a licensee who supervises the experience of a CPA candidate shall submit a verification of experience form specifying the dates of supervision, hours worked and types of experience. Subsection (b) provides that a supervisor who fails to properly verify a candidate's experience is subject to disciplinary action.

The proposed rulemaking would relocate to subsection (a) the requirements for a supervisor in § 11.6. The proposed rulemaking would make editorial changes to subsection (a) and relocate it to subsection (b). The proposed rulemaking would relocate subsection (b) to a new subsection (c) and would expand its scope to provide that a supervisor may not knowingly submit a false or inaccurate verified statement or wilfully refuse to submit a verified statement when qualified experience has been acquired. The amendments also would rename § 11.56 as "Supervision of experience; verification."

§ 11.73 (*relating to interpretation of chapter*). Section 11.73 provides that the Board's regulations are not to be construed to be in violation of, or inconsistent with, the act. The amendments would delete § 11.73 as unnecessary. The Board's obligation to construe its regulations in consonance with the act is inherent in the primacy of a statute over the regulations promulgated under authority of the statute.

#### *Statutory Authority*

Section 3(a)(11) and (12) of the act (63 P. S. §§ 9.3(a)(11) and (12)) authorizes the Board to promulgate, respectively, regulations regarding professional conduct and to other matters necessary to carry out the provisions of the act.

#### *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking would not have a fiscal impact on, or create additional paperwork for, the regulated community, the general public or the Commonwealth and its political subdivisions.

The Board solicited comments from the major professional organizations that represent the regulated community in this Commonwealth.

#### *Effective Date*

The proposed rulemaking would become effective upon final-form publication in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 23, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Standing Committee on Consumer Protection and Professional Licensure and the House Standing Committee on Professional Licensure. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. 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 comments, recommendations or objections raised.

*Public Comment*

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed rulemaking to Steven Wennberg, Counsel, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

ROBERT J. CIARUFFOLI, Jr., CPA,  
*Chairperson*

**Fiscal Note:** 16A-559. 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 11. STATE BOARD OF ACCOUNTANCY  
GENERAL PROVISIONS**

**§ 11.1. Definitions.**

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

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*Act*—The [ C.P.A. ] CPA Law (63 P. S. §§ 9.1—[ 9.16(b) ] 9.16b)[, which promulgates the rules of professional conduct for certified accountants of this Commonwealth ].

[ *Attest function*—A written communication that expresses a conclusion about the reliability of a written assertion which may take the form of an audit, review or compilation of a financial statement or an examination of prospective financial information.

*Board*—The State Board of Accountancy of the Commonwealth.

[ C.P.A. ] CPA—Certified [ Public Accountant of this Commonwealth ] public accountant.

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[ *Contingent fee*—A fee established for the performance of a service under an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. ]

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[ *Firm*—A proprietorship, partnership or professional corporation or association engaged in the practice of public accounting and registered with the Board. ]

\* \* \* \* \*

[ *Inactive status*—Status of a C.P.A. or Registered Public or Foreign Accountant who is not permitted to engage in the practice of public accounting because he does not qualify for or possess a current biennial permit. ]

\* \* \* \* \*

[ *Licensee*—A person holding a certificate issued by the Board, registered with the Board, or holding a permit to practice and a firm registered with the Board or holding a permit to practice. ]

\* \* \* \* \*

[ *Practice of public accounting*—The offering to perform, or the performing, for a client or potential client services involving the use of accounting or auditing skills, management advisory or consulting services, preparation of tax returns or furnishing of advice on tax matters while holding oneself out in a manner that states or implies one is a licensee.

*Professional Corporation Law*—The Professional Corporation Law (15 P. S. §§ 2901-2914) which allows for the formation of professional associations or corporations by accountants. ]

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§ 11.3. [ Applicability of general rules ] (Reserved).

[ Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) is applicable to the activities of and proceedings before the Board. ]

§ 11.5. Temporary practice in this Commonwealth.

(a) *Requirements for temporary practice.* A [ certified public accountant ] CPA, or [ partnership or corporation ] association composed of [ certified public accountants ] CPAs, of another state [ or other jurisdiction of the United States ] may temporarily practice public [ accountancy ] accounting in this Commonwealth, if the [ certified public accountant, or partnership or corporation ] CPA or association:

(1) Holds a [ valid ] current license or registration to practice public [ accountancy ] accounting in the other state [ or jurisdiction ].

(2) Concurrently practices public [ accountancy ] accounting in the other state [ or jurisdiction ].

(3) Does not personally maintain an office in this Commonwealth.

\* \* \* \* \*

(b) *Temporary practice permit.* The temporary practice permit:

(1) Allows [ a certified public accountant, or partnership or corporation, who meets the requirements of subsection (a) ] the permitholder to work for not more than 500 hours in this Commonwealth during a 12-month period, except that this 500 hour limitation does not apply if the [ holder of a temporary practice permit ] permitholder is working only on a single, nonrecurring engagement.

\* \* \* \* \*

[ (c) *Failure to meet requirements for temporary practice.* A person, partnership or corporation, of another state or other jurisdiction who wishes to practice public accountancy in this Commonwealth but does not meet the requirements of subsection (a) is subject to the full licensing requirements of section 8.2 of the act (63 P. S. § 9.8b).

(d) *Exemption from requirement of temporary practice permit.* The requirement of a temporary practice permit does not apply to a person, partnership or corporation, who renders bookkeeping and similar technical services, prepares income tax returns, or prepares financial statements, but does not issue a report that expresses an opinion or assurance on the statements. ]

[ SUPERVISION ]

§ 11.6. [ Supervised experience ] (Reserved).

[ (a) Supervised experience that qualifies a person to take the certified public accountant examination or to be granted a certificate of certified public accountant shall meet the following conditions:

(1) The supervisor shall be a licensed certified public accountant or public accountant during the period of supervision.

(2) The supervisor shall employ the person or be employed by the same person, partnership, corporation or branch of government as the person he is supervising.

(3) The supervisor personally evaluates and is responsible for the work performed by the person.

(b) The following are examples of experience which do not qualify a person to take the certified public accountant examination or to be granted a certificate of certified public accountant.

(1) Self-employment.

(2) Work as a partner in a partnership.

(3) Work supervised by a certified public accountant who was not licensed at the time of supervision.

(4) Work supervised by an accounting firm which is independent of the entity for which the person works. ]

§ 11.7. [ Use of the designation "public accountant" and the abbreviation "PA" ] (Reserved).

[ (a) Only the following individuals and entities may use the designation public accountant, the

abbreviation PA, and other designations which suggest that the user is a public accountant.

(1) An individual who is registered as a public accountant under section 8.7 of the act (63 P. S. § 9.8g) and holds a current license.

(2) An individual who has written notification from the Board that he was qualified to receive a certificate of certified public accountant and holds a current license.

(3) A partnership, professional association or professional corporation composed of public accountants or of certified public accountants and public accountants which registered under section 8.5 or 8.6 of the act (63 P. S. § 9.8e or § 9.8f) and holds a current license.

(b) It is unlawful for an individual, partnership, professional association or professional corporation, not currently licensed to engage in the practice of public accounting or to use the designation public accountant, the abbreviation PA or a similar designation.

(c) The following are examples of unlawful use of the designation public accountant, PA or similar designations:

(1) An individual had registered under section 8.7 of the act (63 P. S. § 9.8g) and had once been licensed. The individual does not hold a current license but still uses business cards which indicate that he is a public accountant. To make use of the designation public accountant, the individual shall hold a current license.

(2) An unlicensed individual offers to prepare income tax returns and either asserts that he is a public accountant or signs the return "John Doe, PA." *Explanation:* The offer to perform a service related to accounting while holding oneself out as a public accountant is engaging in the practice of public accounting and requires a current license.

(d) Unlawful use of the designation "Public Accountant" and the abbreviation "PA" may result in the penalties in sections 9.1, 9.3, 14 and 16 of the act (63 P. S. §§ 9.9a, 9.9c, 9.14 and 9.16). ]

§ 11.8. [ Use of the designation "certified public accountant" and the abbreviation "CPA" in the practice of public accounting ] (Reserved).

[ (a) Only the following individuals and entities may use the designation certified public accountant, the abbreviation CPA, and other designations which suggest that the user is a certified public accountant, in the practice of public accounting.

(1) An individual who holds a certificate of certified public accountant and a current license.

(2) An individual who has written notification from the Board that he has qualified to receive a certificate of certified public accountant and a current license.

(3) A partnership, professional association or professional corporation composed of certified public accountants which is registered with the Board under section 8.3 or 8.4 of the act (63 P. S. § 9.8c or § 9.8d) and holds a current license.

(b) It is unlawful for an individual, partnership, professional association or professional corpora-

tion, not currently licensed to engage in the practice of public accounting to hold oneself out as a certified public accountant.

(c) The following are examples of unlawful use of the designation certified public accountant, CPA or similar designations, in the practice of public accounting.

(1) An individual who holds a certificate of certified public accountant but not a current license offers to establish a bookkeeping system for a potential client and tells the potential client that he is a certified public accountant. *Explanation:* The offer to perform a service related to accounting, including matters such as bookkeeping and tax returns, while holding oneself out as a certified public accountant is engaging in the practice of public accounting and requires a current license.

(2) An individual who holds a certificate of certified public accountant but not a current license prepares income tax returns. The individual has a sign outside of his office which reads "John Doe, CPA, Tax Preparation." *Explanation:* The sign is a solicitation to perform accounting-related services. By offering to perform services related to accounting without maintaining a current license, John Doe violates the act. Similarly, John Doe may not sign a tax return which he prepared as "John Doe, CPA." John Doe may lawfully put up a sign reading "John Doe, Tax Preparation" and may prepare and sign tax returns as "John Doe."

(d) Unlawful use of the designation "certified public accountant" and the abbreviation "CPA" in the practice of public accounting may result in the penalties set forth in sections 9.1, 9.3, 14 and 16 of the act (63 P. S. §§ 9.9a, 9.9c, 9.14 and 9.16). ]

§ 11.9. Use of [ the designation "certified public accountant" and the abbreviation "CPA" by holders of a certificate of certified public accountant who do not maintain current licensure and are not engaged in the practice of public accounting ] professional title solely as mark of achievement by individual without current license.

[ (a) ] An individual who holds a certificate of certified public accountant but does not maintain a current [ licensure ] license to practice public accounting, or an individual who has received notification from the Board that he is qualified to receive a certificate of certified public accountant, may use the designation "certified public accountant" [ or ] and the abbreviation "CPA" solely as a mark of achievement [ on business cards and stationery if ] subject to the following conditions:

\* \* \* \* \*

(2) The individual has notified the Board in writing that he wishes to be placed on the Board's inactive license roll.

(3) The individual does not [ engage in the ] practice [ of ] or offer to practice public accounting [ or offer to perform public accounting ] and is not a member or employee of a public accounting firm.

(4) [ The individual does not hold himself out to be in the practice of public accounting when per-

forming or offering to perform accounting, bookkeeping, tax or accounting-related matters.

(5) The individual does not engage in advertising, including listings and advertisements in phone directories, newspapers, magazines, electronic media and indoor and outdoor signs, in which the individual uses the designation certified public accountant, the abbreviation CPA or a similar designation.

(6) ] The individual does not [ publicly ] display [ a ] the certificate of certified public accountant [ to imply that he is licensed in the ] in a manner that suggests he is authorized to practice [ of ] public accounting [ or offering to perform public accounting ] .

[ (7) The individual is employed by an academic institution, corporation or company not engaged in the practice of public accounting, or government, and uses the designation certified public accountant or the abbreviation CPA on business cards and stationery if the following are met:

(i) The business cards and stationery indicate the name of the employer and the title of the person.

(ii) The business cards or stationery are not used to solicit public accounting or accounting-related business.

(b) The following are examples of unlawful use of the designation certified public accountant or the abbreviation CPA by holders of the certificate of certified public accountant who do not maintain current licensure:

(1) The holder of a certificate of certified public accountant who does not maintain current licensure has a sign in the window of his home, "John Doe, CPA". The sign is an offer to practice accounting which requires current licensure.

(2) The holder of a certificate who does not maintain current licensure shows his business card which says "John Doe, CPA, any Company or Institution, Title" to an acquaintance and offers to set up an accounting procedure. *Explanation:* The offer is an offer to practice public accounting which requires current licensure.

(c) Unlawful use of the designation "certified public accountant" and the abbreviation "CPA" by holders of a certificate of certified public accountant who do not maintain current licensure and are not engaged in the practice of public accounting may result in the penalties set forth in sections 9.1, 9.3, 14 and 16 of the act (63 P. S. §§ 9.9a, 9.9c, 9.14 and 9.16). ]

(5) The use of the designation "certified public accountant" and the abbreviation "CPA" under this section is limited to the following:

(i) A résumé or curriculum vitae, when accompanied by language reflecting that the individual's license is inactive.

(ii) A business card, when accompanied by the name of the individual's employer and the individual's job title or, if the individual is self-employed, when accompanied by wording describing the nature of the individual's business.

(iii) Letterhead and other stationery, when accompanied by the name of the individual's em-

ployer and the individual's job title or, if the individual is self-employed, when accompanied by wording describing the nature of the individual's business.

RELATIONS WITH CLIENTS AND THE PUBLIC

§ 11.21. Independence.

A licensee may not **[express an opinion on financial statements of]** issue an attestation report for an enterprise in **[such]** a manner **[as]** to imply that he is acting as an independent public accountant with respect thereto unless he is independent with respect to **[such]** the enterprise. Independence will be considered impaired **[in either of the following situations:]** when the licensee has not complied with the independence rules and requirements of a recognized public or private standard-setting body—for example, AICPA, Securities and Exchange Commission, General Accounting Office, Department of Labor—as applicable under the circumstances.

**[(1) During the period of his professional engagement or at the time of expressing his opinion:**

**(i) The licensee:**

**(A) Had or was committed to acquire a direct or material indirect financial interest in the enterprise.**

**(B) Was a trustee of a trust or an executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise.**

**(ii) The licensee had a joint closely-held business investment with the enterprise or an officer, director or principal stockholder thereof which was material in relation to the net worth of either the licensee or the firm of the licensee.**

**(iii) The licensee had a loan to or from the enterprise or an officer, director or principal stockholder thereof other than the following kinds made by a financial institution under normal lending procedures, terms and requirements:**

**(A) Loans obtained by the licensee which are not material in relation to the net worth of the borrower.**

**(B) Home mortgages.**

**(C) Other secured loans except those secured solely by a guarantee of the licensee.**

**(2) During the period of his professional engagement, at the time of expressing his opinion or during the period covered by the financial statements, the licensee:**

**(i) Was connected with the enterprise as a promoter, underwriter, voting trustee, director or officer or in a capacity equivalent to that of a member of management or of an employee.**

**(ii) Was a trustee for a pension or profit-sharing trust of the enterprise.**

**(iii) Was in a way connected with the enterprise that would impair independence. ]**

§ 11.25. Contingent fees.

(a) A licensee may not collect or offer to collect a contingent fee for **[one or more]** any of the following:

(1) The performance of a professional service during any period covered by financial statements with respect to which the client entered into an attest **[function] activity** engagement with the licensee.

\* \* \* \* \*

(b) Letters, statements or other documents generated during an engagement when the licensee is collecting a contingent fee shall contain a statement that the licensee has not provided attest **[function] activity** services for this engagement.

**(c) For purposes of this section, a contingent fee is a fee established for the performance of a service under an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. A fee is not contingent if it is fixed by courts or other public authorities or, in tax matters, if it is determined based on the results of judicial proceedings or the findings of government agencies.**

§ 11.27. Auditing standards and other technical standards.

(a) *Auditing standards.* A licensee may not permit his name to be associated with financial statements to imply that he is acting as an independent public accountant with respect to the financial statements unless he has complied with applicable **[generally accepted auditing standards]** GAAS. Statements on auditing standards issued by the **[American Institute of Certified Public Accountants]** AICPA or other pronouncements having similar generally recognized authority are considered to be interpretations of **[generally accepted auditing standards, and departures therefrom shall be justified by those who do not follow them]** GAAS. A licensee shall justify any departures from the standards.

(b) *Other technical standards.* A licensee shall comply with other technical standards promulgated by bodies of the **[American Institute of Certified Public Accountants]** AICPA or other recognized authorities designated to establish the standards**[, and departures therefrom shall be justified by the licensee who does not follow them]**. A licensee shall justify any departures from the standards.

§ 11.28. Accounting principles.

A licensee may not express an opinion that financial statements are presented in conformity with **[generally accepted accounting principles]** GAAP if **[such]** the financial statements contain any departure from **[such accounting principles which]** GAAP that has a material effect on the financial statements taken as a whole, unless the licensee can demonstrate that by reason of unusual circumstances the financial statements would otherwise be misleading. In such a case, the report of the licensee shall describe the departure, the approximate effects thereof if practicable, and the reasons why compliance with the principle would result in a misleading statement. For purposes of this section, **[generally accepted accounting principles]** GAAP are considered to be defined by pronouncements issued by the Financial Accounting Standards Board and its predeces-

sor entities and similar pronouncements issued by other entities having similar generally recognized authority.

§ 11.30. [ Confidential client information ] (Reserved).

[ A licensee may not without the consent of his client disclose a confidential information pertaining to his client obtained in the course of performing professional services except to the extent provided by section 11.1 of the act (63 P. S. § 9.11a). ]

§ 11.31. Records.

[ A licensee shall furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question:

- (1) A copy of a tax return of the client.
- (2) A copy of a report or other document issued by the licensee to or for such client.
- (3) Accounting or other records belonging to the client which the licensee removed from the premises of the client or received for the account of the client, but the licensee may make and retain copies of such documents when they form the basis for work done by him. ]

§ 11.35. [ Form of practice ] (Reserved).

[ A licensee may practice public accounting only in a proprietorship, a partnership or a professional corporation or association. ]

§ 11.36. Business name.

(a) A licensee that is a firm or sole practitioner may use a fictitious name as a business name.

(b) A licensee who is a sole practitioner may not use a professional name bearing the words "and Company," "and Associates" or a variation of those words, unless the licensee employs at least one individual who possesses the credential of certified public accountant or public accountant, has sat for the CPA examination or has the educational qualifications to sit for the CPA examination.

#### [ LIABILITY ]

§ 11.41. [ Professional corporations and associations liability requirements ] (Reserved).

[ (a) In addition to the liability provisions of the Professional Corporation Law (15 P. S. §§ 2901—2914), the professional corporation shall carry professional liability insurance in the amount of \$25,000 per claim multiplied by the number of its shareholders, officers and professional employees employed in this Commonwealth; however, the maximum insurance coverage is not required to exceed \$500,000 per claim. In addition to the liability provisions of the Professional Association Act (15 P. S. §§ 12601—12619), the professional association shall carry professional liability insurance in the amount of \$25,000 per claim multiplied by the number of its associates, officers and professional employees employed in this Commonwealth; however, the maximum insurance coverage is not required to exceed \$500,000 per claim. Liability insurance is not required if the professional corporation or the professional association maintains unimpaired capital equal to the amount of insurance required. Liability may not be limited by the forma-

tion of subsidiary or affiliated corporations or associations, each with its own limited and unrelated liability. When the professional corporation or association applies for licensure or licensure renewal, it shall submit verification that it is carrying the professional liability insurance required by this subsection or it shall submit financial statements disclosing that it has unimpaired capital equal to the amount of insurance required by this subsection. The professional corporation or association shall notify the board if its liability insurance policy is cancelled or if unimpaired capital falls below the amount required by this subsection.

(b) For the professional corporation, unimpaired capital as used in subsection (a) means capital assigned to stock plus additional paid-in capital plus retained earnings minus treasury stock held at cost. For the professional association, unimpaired capital as used in subsection (a) means unencumbered owners' equity. The financial statements of the professional corporation or professional association used in determining the unimpaired capital shall be prepared in accordance with generally accepted accounting principles. ]

#### EXPERIENCE

§ 11.53. [ Classification of candidates ] (Reserved).

[ (a) A candidate who holds a baccalaureate degree, passed the examination and completed at least 12 semester credits in accounting subjects of a content satisfactory to the Board shall have at least 2 years of qualified experience in public accounting or as an auditor with a unit of government.

(b) A candidate who holds a master's degree, passed the examination and completed at least 12 semester credits in accounting subjects of a content satisfactory to the Board shall have at least 1 year of qualified experience in public accounting or as an auditor with a unit of government. ]

§ 11.54. [ Time limits ] (Reserved).

[ (a) Each year of qualified experience shall be met by attaining 1,600 hours in not less than 12 months.

(b) A candidate may not receive credit for more than 1,600 hours in a 12-month period.

(c) A candidate shall complete the required experience within a 60-month period preceding the date of application for a certificate of certified public accountant. ]

§ 11.55. [ Qualified experience ] Experience requirements for CPA certification.

(a) *General requirements.*

(1) A candidate for CPA certification who qualified for the CPA examination based on possession of a bachelor's degree and completion of 24 semester credits in relevant subjects shall have acquired 3,200 hours of qualifying experience, including a minimum of 800 hours of attest activity, over at least a 24-month period.

(2) A candidate for CPA certification who qualified for the CPA examination based on possession of a master's degree or other postgraduate degree and completion of 24 semester credits in relevant subjects shall have acquired 1,600 hours of qualify-



ing experience, including a minimum 400 hours of attest activity, over at least a 12-month period.

(3) A candidate for CPA certification who qualified for the CPA examination based on possession of a bachelor's degree or higher degree and completion of 150 semester credits of post-secondary education including 36 semester credits in relevant subjects shall have acquired 1,600 hours of qualifying experience, including a minimum 400 hours of attest activity, over at least a 12-month period.

(4) A candidate may not receive credit for more than 1,600 hours of qualifying experience in a 12-month period. A candidate may acquire all hours of qualifying experience in attest activity.

(b) *Attest activity.* A [ minimum of 800 hours of total qualified experience ] candidate's attest activity shall be [ obtained ] in one or more of the following areas:

(1) Candidates employed in public accounting:

(i) Audits of financial statements in accordance with GAAS or GAGAS.

[ (2) ] (ii) \* \* \*

[ (3) ] (iii) \* \* \*

[ (4) Internal audits in an established internal auditing department which meet accepted standards.

(5) Training sessions on the attest function.

(6) [ (iv) Other auditing in accordance with accepted standards [ which ] that leads to an expression of a written opinion including:

[ (i) ] (A) \* \* \*

[ (ii) Government audit agencies rendering an opinion or report.

(iii) Operations audit review ]

(B) Operational audits.

[ (iv) ] (C) \* \* \*

[ (v) ] (D) \* \* \*

(2) Candidates employed in private industry:

(i) Performance of an independent internal audit function.

(ii) Compliance audits of government contracts performed on behalf of a government agency that result in the issuance of an opinion or report.

(3) Candidates employed in Federal, State or local government:

(i) Performance of an independent internal audit function.

(ii) Audits performed on behalf a government audit agency that results in the issuance of an opinion or report.

[ (b) The remaining hours of qualified experience may be obtained ] (c) *Nonattest activity.* A candidate's nonattest activity shall be in one or more of the following areas:

\* \* \* \* \*

(2) Tax research [ which ] that is properly documented.

\* \* \* \* \*

(4) Financial forecasts, [ analysis ] analyses and projections.

(5) Management advisory services [ which ] that meet AICPA standards.

\* \* \* \* \*

(7) Professional accounting-related work in [ an ] a public accounting firm.

[ (c) Hours of experience will not be given for time spent on nonprofessional work, including recruiting, industrial engineering, administration, bookkeeping, appraisal, market research or paraprofessional work unless the work complies with subsection(b)(5). ] (d) *Nonqualifying experience.* A candidate will not receive credit for the following types of experience:

(1) Experience that was supervised by an individual who did not meet the requirements of § 11.56 (relating to supervision of experience; verification) at the time the experience was obtained.

(2) Experience acquired while self-employed.

(3) Experience acquired as a partner in a partnership.

(4) Experience comprising nonprofessional work—for example, recruiting, industrial engineering, administration, bookkeeping, appraisals—or paraprofessional work that does not comply with subsection (c)(7).

§ 11.56. [ Verification ] Supervision of experience; verification.

(a) To receive credit for experience under § 11.55 (relating to experience requirements for CPA certification), a candidate for CPA certification shall acquire the experience under the supervision of an individual who meets the following conditions at the time the experience is acquired:

(1) Holds a current license to practice as a certified public accountant or public accountant in this Commonwealth or another jurisdiction.

(2) Either employs the candidate or is employed by the same employer as the candidate. The supervisor may not be a member of a public accounting firm that is independent of the entity that employs the candidate.

(3) Is responsible for and personally evaluates the candidate's work.

(b) [ The ] A supervisor shall submit a verified statement [ to the Board ] regarding the candidate's experience on a form provided by the Board [ which specifies ], specifying the dates of supervision [ , ] and the types and hours of experience [ obtained and the number of hours ] acquired.

[ (b) The supervisor who submits the statement shall be responsible for its accuracy. Failure to properly verify may result in disciplinary action. ] (c) A supervisor may not knowingly submit a false or inaccurate verified statement or wilfully refuse

to submit a verified statement when qualified experience has been acquired.

[ INTERPRETATION ]

§ 11.73. [ Interpretation of chapter ] (Reserved).

[ This chapter may not be construed to be in violation of or inconsistent with the act. ]

[Pa.B. Doc. No. 05-419. Filed for public inspection March 4, 2005, 9:00 a.m.]

## STATE BOARD OF PSYCHOLOGY

[49 PA. CODE CH. 41]

### Biennial Renewal Fee Increase

The State Board of Psychology (Board) proposes to amend § 41.12 (relating to fees) to read as set forth in Annex A. The proposed rulemaking would increase the biennial license renewal fee for psychologists from \$120 to \$300.

#### Effective Date

The proposed amendment will be effective upon final-form publication in the *Pennsylvania Bulletin*. The new fees will take effect for the biennial period commencing December 1, 2005.

#### Statutory Authority

The proposed rulemaking is authorized under section 3.3(a) of the Professional Psychologists Practice Act (act) (63 P. S. § 1203.3(a)). It requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Board expenditures.

#### Background and Need for Proposed Rulemaking

The Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In accordance with section 3.3(a) of the act, if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period, the Board must increase fees by regulation so that its projected revenues will match or exceed expenditures.

The Board raises virtually all of its operating revenue (exclusive of application and services fees) through biennial renewal fees. The biennial license renewal fee is the most substantial revenue generating fee of all the fees charged by the Board. The Board's current biennial license renewal fee for psychologists was established by regulation at 20 Pa. B. 2034 (April 14, 1990).

At its September 21, 2004, Board meeting, the Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for Fiscal Years (FY) 2001-2002 and 2003-2004 and projected revenue and expenses for FY 2003-2004 through FY 2010-2011. The summary, presented in table format as follows, demonstrated that the Board must raise fees to meet or exceed projected expenditures to comply with section 3.3(a) of the act. The BFO projected a deficit of \$420,554.58 in FY 2004-2005, a deficit of \$370,554.58 in FY 2005-2006 and a deficit of \$998,554.58 in FY 2006-2007. The BFO recommended that the Board raise fees to meet projected expenditures, in compliance with section 3.3(a) of the act.

2001-2002 beginning balance	\$281,563.02
FY 2001-2002 revenue	701,605.69
Prior year returned funds	15,208.46
FY 2001-2002 expenses	384,000.00
Remaining balance	614,377.17
2002-2003 beginning balance	\$614,377.17
FY 2002-2003 revenue	40,496.72
Prior year returned funds	0.00
FY 2002-2003 expenses	418,000.00
Remaining balance	236,873.89
2003-2004 beginning balance	\$236,873.89
FY 2003-2004 projected revenue	716,282.39
FY 2003-2004 projected expenses	544,000.00
Remaining balance	409,156.28
2004-2005 beginning balance	\$409,156.28
FY 2004-2005 projected revenue	42,000.00
Adjusted for prior year expenses	240,710.86
FY 2004-2005 projected expenses	631,000.00
Remaining balance	(\$420,554.58)
2005-2006 beginning balance	(\$420,554.58)
FY 2005-2006 projected revenue	700,000.00
FY 2005-2006 projected expenses	650,000.00
Remaining balance	(370,554.58)
2006-2007 beginning balance	(\$370,554.58)
FY 2006-2007 projected revenue	42,000.00
FY 2006-2007 projected expenses	670,000.00
Remaining balance	(998,554.58)
2007-2008 beginning balance	(\$998,554.58)
FY 2007-2008 projected revenue	700,000.00
FY 2007-2008 projected expenses	690,000.00
Remaining balance	(998,554.58)
2008-2009 beginning balance	(\$998,554.58)
FY 2008-2009 projected revenue	42,000.00
FY 2008-2009 projected expenses	711,000.00
Remaining balance	(1,657,554.58)
2009-2010 beginning balance	(\$1,657,554.58)
FY 2009-2010 projected revenue	740,000.00
FY 2009-2010 projected expenses	732,000.00
Remaining balance	(1,649,554.58)
2010-2011 beginning balance	(\$1,649,554.58)
FY 2010-2011 projected revenue	42,000.00
FY 2010-2011 projected expenses	754,000.00
Remaining balance	(\$2,361,554.58)

The BFO estimates that at the close of FY 2004-2005, the Board's expenses will exceed its revenues by \$420,554.58. The BFO anticipates that the deficit will increase proportionally, except for FY 2005-2006, in each succeeding fiscal year. Without an increase, the projected deficit in FY 2010-2011 would be \$2,361,554.58.

The increases in the Board's biennial expenses occurred primarily in hearing examiner and legal office costs. Hearing examiner expenditures increased from approximately \$10,914.55 in FY 2002-2003 to approximately \$28,472.31 in FY 2003-2004. The BFO estimates that this expenditure will increase to \$32,000.00 in FY 2004-2005. The legal office expenditures increased from approximately \$208,344.29 in FY 2002-2003 to approximately \$228,056.31 in FY 2003-2004. BFO anticipates that this expenditure will increase to \$240,000.00 in FY 2004-2005.

Hearing examiner costs almost tripled in 2003-2004 as a result of the increasing number of cases delegated to the hearing examiners in 2002-2003. During 2002-2003, the Board delegated 20 cases to hearing examiners. In 2003-2004, the Board delegated 10 cases to hearing examiners. Many of the cases delegated in 2002-2003

were actually heard in 2003-2004. In addition to continuing education cases which were delegated in 2002-2003, in 2003-2004, the Board also began delegating criminal conviction and reciprocal discipline cases to hearing examiners.

In 2003, the Board imposed significantly more disciplinary sanctions than in any prior year. In 2003, the Board imposed 32 total sanctions, as opposed to 17 in 2002, 10 in 2001, 16 in 2000 and 20 in each 1998 and 1999. Additionally, the Board imposed more serious sanctions than in any prior year, imposing 12 serious sanctions in 2003, 7 in 2002, 5 in 2001, 8 in 2000 and 3 each in 1998 and 1999. Finally, the Board closed more cases in 2003 than in any prior year, closing 133 cases as compared with 87 cases in 2002, 62 in 2001, 88 in 2000, 86 in 1999 and 114 in 1998. As of September 20, 2004, there were 104 cases currently opened as opposed to 131 cases open as of September 20, 2003.

At the same time, the Board's licensee population has declined by about 400 licensees over the past 5 years. The net effect was that while the Board's costs of enforcement activities were increasing, the Board experienced a decrease in its largest revenue-generating source. Moreover, as a result of a small licensee population, the Board is unable to take advantage of the economies of scale available to licensees of Boards with larger populations.

The Board carefully reviewed several options in fee increases to ensure the lowest fee increase possible while keeping the Board out of a long run deficit. In addition to increasing fees the Board is looking at ways to streamline procedures to cut costs, but the fee increases are still necessary to maintain a positive balance in the Board account in the long run. Finally, in developing the proposal, the Board reviewed fees of other states. It found that the proposed fees are comparable to the renewal fees charged in surrounding states and should cause no competitive disadvantage to the Commonwealth.

*Description of Proposed Rulemaking*

Based upon the expense and revenue estimates provided to the Board, the Board proposes to amend its fee schedule in § 41.12 (relating to fees) to increase the fee for biennial renewal of licenses for psychologists from \$120 to \$300.

*Fiscal Impact*

The proposed rulemaking will increase the biennial renewal fee for psychologists. The proposed rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

*Paperwork Requirements*

The proposed rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed regulations should not create additional paperwork for the private sector.

*Sunset Date*

The act requires that the Board monitor its revenue and expenses on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 23, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. 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 comments, recommendations or objections raised.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Christina Stuckey, Administrator, State Board of Psychology, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ALEX M. SIEGEL, J.D., Ph.D.,  
*Chairperson*

**Fiscal Note:** 16A-6316. 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 33. STATE BOARD OF PSYCHOLOGY LICENSES**

**§ 41.12. Fees.**

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

\* \* \* \* \*

Biennial renewal fee . . . . . \$[ 120 ] 300

[Pa.B. Doc. No. 05-420. Filed for public inspection March 4, 2005, 9:00 a.m.]