

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 18]

### Respiratory Care Continuing Education

The State Board of Medicine (Board) amends §§ 18.302 and 18.309 (relating to definitions; and renewal of certification) and adds §§ 18.309a and 18.309b (relating to requirement of continuing education; and approved educational courses) to read as set forth in Annex A.

#### A. *Effective Date*

This final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

#### B. *Statutory Authority*

The act of July 2, 2004 (No. 55, P. L. 484) (Act 55) amended the Medical Practice Act of 1985 (act) (63 P. S. §§ 422.1—422.51a) to provide for the continuing education of respiratory care practitioners. Section 36(f)(1) of the act (63 P. S. § 422.36(f)(1)) directs the Board to promulgate regulations as necessary to establish the requirements for continuing education for respiratory care practitioners.

#### C. *Background and Purpose*

This final-form rulemaking implements Act 55 by establishing requirements for continuing education to be met by individuals holding certifications as respiratory care practitioners as a condition of certificate renewal.

#### D. *Summary of comments and Responses to Proposed Rulemaking*

A proposed rulemaking was published at 35 Pa.B. 5520 (October 8, 2005). The Board entertained public comment for 30 days during which time the Board received comments from the Pennsylvania Society for Respiratory Care (PSRC), Soldiers + Sailors Memorial Hospital and two individual respiratory care practitioners. Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The Board also had input from one of its members who is a respiratory care practitioner. The following is a summary of the comments and the Board's response.

The PSRC was supportive of the proposed rulemaking. The PSRC suggested that the regulations allow for a combination of traditional and nontraditional continuing education methods. Traditional education is considered "live" interaction with a presenter either in a classroom setting, a real-time web-cast or a teleconference. Nontraditional education includes prerecorded presentations, Internet-based presentations or journal review programs. The PSRC suggested that 50% of the continuing education hours be acquired through traditional education and 50% be acquired by nontraditional education. A further suggestion was that of the 20 continuing education hours

required, 1 hour be required in the category of ethics and 1 hour be required in patient safety.

Soldiers + Sailors Memorial Hospital suggested that certificateholders be permitted no more than 8 to 10 hours in a nontraditional setting during the biennial renewal period. It was further suggested that the amount of hours obtained by taking advanced life support courses be limited to 12 credits. One of the respiratory care practitioners suggested the 50/50 split in traditional and nontraditional coursework. The other respiratory care practitioner offered no recommendations.

The HPLC and IRRC questioned the ability of certificateholders to meet the 20-hour requirement prior to the biennial renewal of December 31, 2006, in view of the time remaining. The HPLC requested information as to the Board's efforts to inform its certificateholders about the continuing education requirement and also suggested a prorating of the required hours for the current biennium. IRRC suggested that the requirements be effective with the biennial renewal period beginning January 1, 2007. The Board acknowledges the concerns of the HPLC and IRRC. However, all certificateholders have had a significant period of time to obtain the continuing education hours. In anticipation of these concerns and in recognition of the length of the regulatory review process, the Board sent a direct mailing to all respiratory care practitioners certified by the Board in the beginning of June 2005. In addition, the new requirements have been posted on the Board's website since September 2004. Therefore, all respiratory care practitioners certified by the Board have had personal notification in excess of 18 months to obtain the required hours. The Board believes 18 months is more than sufficient time to obtain 20 continuing education hours. IRRC further suggested that the Board permit a portion of the credit hours to be obtained by nontraditional methods.

The Board has no objection to the 50/50 split in the manner of obtaining the continuing education credits. Recognizing the benefits of modern technology as a tool in the learning process and acknowledging that individuals will learn and gain information in the manner which is most useful and relevant to them, the Board has determined to accept continuing education obtained through web-casting, teleconferencing and other nontraditional methods, so long as the provider has mechanisms in place to verify participation. The Board concurs with the PSRC, which appeared before the Board twice following the public comment period, that no more than 50% of the continuing education hours be obtained in a nontraditional manner. In reaching this conclusion, the Board has also taken into consideration that the nontraditional method of education is less expensive, which is a concern for certificateholders. Further, in consideration of the comment of the PSRC, and consistent with the continuing education requirements for other Board licensees, the Board has determined that 1 continuing education hour should be required in patient safety and 1 continuing education hour should be required in medical ethics. The Board has been assured by the PSRC that these types of continuing education credit hours are available.

The HPLC and IRRC suggested that the word "next" be replaced with the word "current" in § 18.309(c). The HPLC and IRRC further suggested that the phrase "all or a portion of" be added to § 18.309a(3). The HPLC and IRRC also suggested that the language in section

36.1(f)(4) of the act pertaining to waiver be added to § 18.309a(3). The HPLC recommended that the language in § 18.309(a)(2) be replaced with the language in section 36.1(f)(3) of the act. The HPLC and IRRC suggested that the term “licensee” in § 18.309a(4) be replaced with the word “certificateholder” to track the language of the act. The Board has no objection to these language modifications since they do not alter the intent of the provisions. These revisions have been incorporated in this final-form rulemaking.

The HPLC sought clarification from the Board on what the phrase “advanced coursework in respiratory care” means in § 18.309b(b). The Board has added language to that section to address the HPLC’s concerns. The HPLC also requested a punctuation change, which had previously been made by the Legislative Reference Bureau prior to publication of this rulemaking in the *Pennsylvania Bulletin*.

The HPLC requested assurances that the final-form rulemaking will be in place by December 31, 2006. The Board is committed to the expeditious completion of this final-form rulemaking, and has acted accordingly. The Board does not anticipate any untoward delay by reviewing agencies or reviewing bodies under the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

#### E. Description of Amendments

Section 18.309(c) is amended to delete “next” and substitute “current.” Section 18.309a is expanded by addition of § 18.309a(a)(2). Section 18.309a(a)(2) requires that at least 50% of the required credit hours be taken in lecture or clinical presentations and that no more than 50% of the required credit hours may be taken through individual study. Section 18.309a(a)(4) requires that 1 continuing education hour be completed in patient safety and 1 continuing education hour be completed in medical ethics beginning with the biennial period ending December 31, 2008. The language in § 18.309a(b), which was formerly § 18.309a(a)(2), is deleted and replaced by the language in section 36.1(f)(3) of the act. The phrase “all or a portion of” is inserted to amend § 18.309a(c), which was formerly § 18.309a(3). In addition, this subsection is further amended to add the language in section 36.1(f)(4) of the act pertaining to waiver.

As noted by the HPLC and IRRC, § 18.309a(4) of the proposed rulemaking erroneously referred to respiratory care practitioners as “licensee” instead of “certificateholder.” This error is corrected in this final-form rulemaking in renumbered § 18.309a(d). As suggested by the HPLC, the Board clarifies what is intended to constitute advanced course work in § 18.309b(b).

#### F. Fiscal Impact and Paperwork Requirements

The final-form rulemaking has no adverse fiscal impact or additional paperwork requirements imposed on the Commonwealth, its political subdivisions or the private sector.

#### G. Sunset Date

The Board continuously monitors 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 September 26, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 5520, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 13, 2006 this final-form rulemaking was approved by the HPLC. On July 5, 2006, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 6, 2006, and approved the final-form rulemaking.

#### I. Contact Person

Further information may be obtained by contacting Sabina I. Howell, Counsel, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, showell@state.pa.us.

#### J. Findings

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 35 Pa.B. 5520.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

#### K. Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 18, are amended by amending §§ 18.302 and 18.309 and by adding §§ 18.309a and 18.309b to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

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

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

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

(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)

**Fiscal Note:** Fiscal Note 16A-4921 remains valid for the final adoption of the subject regulations.

## Annex A

TITLE 49. PROFESSIONAL AND  
VOCATIONAL STANDARDS

## PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND  
OCCUPATIONAL AFFAIRSCHAPTER 18. STATE BOARD OF  
MEDICINE—PRACTITIONERS OTHER THAN  
MEDICAL DOCTORSSubchapter F. RESPIRATORY CARE  
PRACTITIONERS**§ 18.302. Definitions.**

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

*AARC*—American Association for Respiratory Care, an organization which provides and approves continuing professional development programs.

*AMA*—American Medical Association, an organization which provides and approves continuing professional development programs.

*AOA*—American Osteopathic Association, an organization which provides and approves continuing professional development programs.

*Act*—The Medical Practice Act of 1985 (63 P. S. §§ 422.1—422.45.)

*CRTT*—The Certification Examination For Entry Level Respiratory Therapy Practitioners, a National uniform examination developed and administered by the NBRC for certified respiratory care therapy practitioners.

*CSRT*—Canadian Society of Respiratory Therapists, an organization which provides and approves continuing professional development programs.

*Continuing education hour*—Fifty minutes of continuing education.

*JRCRTE*—The Joint Review Committee on Respiratory Therapy Education, which accredits respiratory care programs.

*NBRC*—The National Board for Respiratory Care, the agency recognized by the Board to credential respiratory care practitioners.

*Respiratory care practitioner*—A person who has been certified in accordance with the act and this subchapter.

**§ 18.309. Renewal of certification.**

(a) A certification issued under this subchapter expires on December 31 of every even-numbered year unless renewed for the next biennium.

(b) Biennial renewal forms and other forms and literature to be distributed by the Board will be forwarded to the last mailing address given to the Board.

(c) To retain the right to engage in practice, the certificateholder shall renew certification in the manner prescribed by the Board, complete the continuing education requirement set forth in § 18.309a (relating to requirement of continuing education) and pay the required fee prior to the expiration of the current biennium.

(d) When a certification is renewed after December 31 of an even-numbered year, a penalty fee of \$5 for each month or part of a month of practice beyond the renewal date will be charged in addition to the renewal fee.

**§ 18.309a. Requirement of continuing education.**

(a) The following continuing education requirements shall be completed each biennial cycle, commencing with the biennial period ending December 31, 2006:

(1) An applicant for biennial renewal or reactivation of certification is required to complete, during the 2 years preceding the application for renewal or reactivation, a minimum of 20 hours of continuing education as set forth in section 36.1(f)(2) of the act (63 P. S. § 422.36.1(f)).

(2) At least 10 continuing education hours shall be obtained through classroom lecture, clinical presentation, real-time web-cast or other live sessions where a presenter is involved.

(3) No more than 10 continuing education hours may be obtained through Internet presentations, journal review programs, prerecorded video presentations or similar means of nontraditional education. To qualify, the provider shall make available documented verification of completion of the course or program.

(4) Commencing with the biennial period ending December 31, 2008, 1 continuing education hour shall be completed in medical ethics, and 1 continuing education hour shall be completed in patient safety.

(b) An individual applying for the first time for certification is exempt from the continuing education requirement for the biennial renewal period following initial certification.

(c) The Board may waive all or a portion of the requirements of continuing education in cases of serious illness, or other demonstrated hardship or military service. It shall be the duty of each certificateholder who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The request must be made in writing, with appropriate documentation, and include a description of circumstances sufficient to show why the certificateholder is unable to comply with the continuing education requirement. The Board will grant, deny or grant in part the request for waiver and will send the certificateholder written notification of its approval or denial in whole or in part of the request. A certificateholder who requests a waiver may not practice as a respiratory care practitioner after the expiration of the certificateholder's current certificate until the Board grants the waiver request.

(d) A certificateholder shall maintain the information and documentation supporting completion of the hours of continuing education required, or the waiver granted, for at least 2 years from the commencement of the biennial renewal period to which the continuing education or waiver applies and provide the information and documentation to representatives of the Board upon request.

**§ 18.309b. Approved educational courses.**

(a) The Board approves respiratory care continuing education programs designated for professional development credits by the AARC, the AMA, the AOA and the CSRT. The courses, locations and instructors provided by these organizations for continuing education in respiratory care are deemed approved by the Board. Qualifying AMA continuing education programs shall be in AMA PRA Category I as defined in § 16.1 (relating to definitions) and qualifying AOA continuing education programs shall be in Category 1A and 1B.

(b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of

Education which offers academic credits is also approved for continuing education credit by the Board. Advanced course work is any course work beyond the academic requirements necessary for certification as a respiratory care practitioner. Proof of completion of the academic credits shall be submitted to the Board for determination of number of continuing education hours completed.

(c) The Board will not accept courses of study which do not relate to the clinical aspects of respiratory care, such as studies in office management and financial procedures.

[Pa.B. Doc. No. 06-1541. Filed for public inspection August 11, 2006, 9:00 a.m.]

**STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS**  
**[49 PA. CODE CHS. 47—49]**  
**Sexual Misconduct**

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) amends §§ 47.61—47.66, 48.21—48.26 and 49.21—49.26 to read as set forth in Annex A. This final-form rulemaking pertains to sexual misconduct committed by licensed social workers, marriage and family therapists and professional counselors.

*A. Effective Date*

This final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

*B. Statutory Authority*

The final-form rulemaking is authorized under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P.S. § 1906(2)).

*C. Background and Purpose*

This final-form rulemaking was developed to address increasing complaints of sexual misconduct against health care professionals who are licensed by the Department of State, Bureau of Professional and Occupational Affairs. This final-form rulemaking addresses issues concerning sexual misconduct in the context of the provision of social work, clinical social work, marriage and family therapy and professional counseling services.

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

Notice of proposed rulemaking was published at 34 Pa.B. 4908 (September 4, 2004). Publication was followed by a 30-day public comment period during which the Board received comments from the Pennsylvania Chapter of the National Association of Social Workers (NASW-PA) and the Pennsylvania Catholic Conference.

Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The following is a response to the comments and a description of changes to this final-form rulemaking.

*General public comments*

The Pennsylvania Catholic Conference noted that the act defines the terms “licensed clinical social worker,” “licensed marriage and family therapist,” “licensed professional counselor” and “licensed social worker.” However, the proposed rulemaking did not use the term “licensed” and recommended that the Board insert the term “licensed” before all references to these professionals throughout the final-form rulemaking to be consistent with the terminology used in the act. The Board agrees with this recommendation and makes these amendments throughout this final-form rulemaking.

NASW-PA wrote in support of the rulemaking. NASW-PA asked whether a professional who has a sexual addiction problem could be able to disclose that problem to the impaired professional program and receive assistance if the professional was not otherwise subject to disciplinary or corrective action. The Board notes that the impaired professional program is unable to effectively monitor professionals who have a sexual addiction problem. Accordingly, the program is not currently utilized for sexual addiction problems.

*Proposed §§ 47.61, 48.21 and 49.21*

The definitions in proposed §§ 47.61, 48.21 and 49.21 have been moved to §§ 47.1, 48.1 and 49.1 (relating to definitions). The Board intends to propose, in the near future, regulations pertaining to codes of ethics and professional standards of conduct that will use the same definitions. Accordingly, it is advantageous for the Board to move its definitions so that the definitions will apply to other future provisions that also use the defined terms. As a result of this change, the remaining sections have been renumbered.

In the definition of “client/patient,” the HPLC and IRRC recommended that the word “individual” replace “person.” In addition, IRRC suggested that “person” also be changed to “individual” in §§ 47.62, 48.22 and 49.22 (relating to former sexual partners as clients/patients). The Board agreed with these recommendations and amended the sections accordingly. The HPLC and IRRC also asked for clarification regarding the type of decisions a legal guardian can make for a minor or an incapacitated adult. The Board will defer consideration of this comment. This language has been removed in this final-form rulemaking because the Board intends to deal with this issue in proposed regulations pertaining to codes of ethics and standards of professional practice. The HPLC and IRRC also asked for clarification of the term “other exploitive dual relationships” in the proposed definition of “client/patient.” Because this term will apply to the future regulations, the Board has deleted this reference in this final-form rulemaking.

With respect to the definition of “immediate family member,” the HPLC recommended that the Board review and perhaps borrow language from the definition of “family or household members” in 23 Pa.C.S. § 6102 (relating to definitions). However, the Board notes that the proposed definition is consistent with other licensing boards’ definitions. See regulations of the State Board of Psychology in § 41.1 (relating to definitions). The Board believes that this definition is appropriate for setting a professional standard of conduct for licensees and should remain as proposed for internal consistency.

With respect to the proposed definition of “sexual intimacies,” the HPLC recommended that the Board add language similar to that of the State Board of Nursing that states that licensees have a duty to safeguard the

client/patient's dignity and privacy with respect to sexual matters. The Board is in the process of drafting regulations regarding codes of ethics and professional standards that will include the suggested language. Accordingly, the Board has decided not to include that language in this final-form rulemaking. The HPLC also recommended that the Board add language so that the definition of "sexual intimacies" includes some of the prohibitions in State Board of Nursing regulations with respect to inappropriate touching and inappropriate sexual comments. The Board notes that the proposed definition includes "nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature" and "touching, physical contact or self-disclosure of a sexual or erotic nature." The Board believes that inappropriate touching and inappropriate sexual comments are already included in the language of this definition.

IRRC and the NASW-PA suggested that the Board amend the definition of "sexual intimacies" to clarify that nonsexual physical conduct or self-disclosure does not fall under the definition of "sexual intimacies" and, therefore, is not prohibited behavior. The Board considered this suggestion, but believes that the definition refers to physical conduct or self-disclosure that is of a sexual or erotic nature and, therefore, prohibited. For this reason, the Board does not believe that a provision describing permitted conduct is necessary.

The HPLC asked the Board to consider whether other acts should be described as specifically prohibited, such as involuntary deviate sexual intercourse, aggravated indecent assault and indecent assault. The Board believes that this conduct is encompassed in the revised definition of "sexual intimacies" in subparagraph (vi).

The HPLC and IRRC commented that the definition of "sexual intimacies" prohibits a licensee from soliciting a date from a client/patient, but does not prohibit a licensee from accepting a date from a client/patient. The HPLC suggested expanding the language to prohibit a licensee from accepting a date. The Board has agreed with this suggestion and amended the language in the final-form rulemaking by expanding the definition to include soliciting or accepting a date from a client/patient.

The HPLC noted that the term "exposure" was used in the proposed definition and asked whether the Board intended to refer to "indecent exposure." The Board has amended this language to include "indecent exposure" rather than "exposure" in the definition of "sexual intimacies." The HPLC also noted that part of the definition was in parentheses and recommended that the parentheses be removed. The Board agreed with this suggestion and has removed the parenthesis in the definition.

*Renumbered §§ 47.61, 48.21 and 49.21 (relating to prohibited conduct)*

The HPLC recommended that the final-form rulemaking specifically provide that engaging in conduct that is prohibited by the regulations is unprofessional conduct and will subject the licensee to disciplinary proceedings. The Board agrees and has added a provision to §§ 47.64, 48.24 and 49.24 (relating to disciplinary proceedings).

*Renumbered §§ 47.63, 48.23 and 49.23 (relating to sexual intimacies with a former client/patient or an immediate family member of a former client/patient)*

The HPLC questioned whether the language regarding sexual intimacies between a licensee and a former client/patient or immediate family member violates the Due Process Clause of the United States Constitution. As an example, the HPLC noted that the language prohibits

sexual intimacies for at least 7 years following the termination of the professional relationship and "then only under limited circumstances." The HPLC questioned whether this language puts licensees on sufficient notice as to what conduct is prohibited, as required by the Due Process Clause. The HPLC recommended that the Board consider using language which states the general rule that sexual conduct is prohibited for 7 years and that after 7 years sexual conduct violates the regulations if certain conditions are present. The Board has agreed with this suggestion and has amended the language accordingly.

The HPLC also noted that language regarding sexual intimacies with a former client/patient or an immediate family member of a former client/patient contained no legal standard for the Board to apply with respect to initiating disciplinary action. The HPLC suggested that the Board provide for language that would state that after 7 years a licensee may engage in sexual conduct which is not exploitive. The Board agreed with this suggestion and has amended the language in subsection (b) accordingly.

IRRC requested that the Board explain the relevant factors that support a 7-year time period after termination of the professional relationship during which sexual intimacies between a licensee and a client/patient are prohibited. The Board researched different mental health professional associations regarding licensees and found that there were many positions on the subject. For example, the National Association of Social Workers believes that sexual conduct between a social worker and former client/patient is never appropriate. The position of the American Association for Marriage and Family Therapy is that sexual conduct between a marriage and family therapist and former client/patient would be appropriate in some circumstances after a period of 2 years after the termination of the professional relationship. The National Federation of Societies for Clinical Social Work, Inc. believes there should never be sexual contact between a clinical social worker and a former client/patient. Based upon this research, the Board believes that a 7-year prohibition is an appropriate compromise.

*Renumbered §§ 47.64, 48.24 and 49.24 (relating to disciplinary proceedings)*

The HPLC and IRRC expressed their understanding that the Board believes the language in subsection (c) is a legal standard to impose disciplinary action and that the HPLC and IRRC understands the language to be rather a burden of proof. The HPLC asked whether this shifting of the burden of proof to the licensee is constitutional. The Board agrees with the concerns raised and has decided to amend the language so that it requires that in disciplinary proceedings, the Board will consider whether there has been exploitation of the client/patient.

The HPLC also recommended that the language "may not be a defense" regarding disciplinary proceedings in subsections (a) be changed to "shall not be a defense." The Board considered this suggestion and changed the language to "is not a defense."

The HPLC and IRRC also noted that the blanket prohibition against engaging in sexual intimacies is inconsistent with subsection (c), which provides that in disciplinary proceedings, licensees have the burden of demonstrating there has been no exploitation of the client/patient in light of all of the relevant factors enumerated under §§ 47.64(b)(1)–(7), 48.24(b)(1)–(7) and 49.24(b)(1)–(7), respectively. The Board agreed with

IRRC in that the only situation in which evidence that the relationship was not exploitative is relevant is when the sexual conduct occurs more than 7 years after termination of the professional relationship. The Board, therefore, agreed with IRRC's recommendation that references to §§ 47.62, 47.63, 48.22, 48.23, 49.22 and 49.24 be deleted from subsection (c). The Board has revised these references in final rulemaking.

*E. Fiscal Impact and Paperwork Requirements*

This final-form rulemaking will have no fiscal impact and will not impose additional paperwork requirements on the private sector, the general public or the Commonwealth and its political subdivisions.

*F. Sunset Date*

The Board continually monitors the effectiveness of its regulations through communication with the regulated population. Accordingly, no sunset date has been assigned.

*G. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 23, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 4908, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 13, 2006 this final-form rulemaking was approved by the HPLC. On July 5, 2006, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 6, 2006, and approved the final-form rulemaking.

*H. Contact Person*

Further information may be obtained by contacting Sandra Matter, Administrative Assistant, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1389.

*I. Findings*

The Board finds that:

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

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

(3) The amendments to this final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 4908.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

*J. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapters 47, 48 and 49, are amended by amending §§ 47.1, 48.1 and 49.1 and by adding §§ 47.61—47.65, 48.21—48.25 and 49.21—49.25 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

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

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

RONALD E. HAYS,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)*

**Fiscal Note:** Fiscal Note 16A-691 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS**

**GENERAL PROVISIONS**

**§ 47.1. Definitions.**

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

*Accredited program*—A graduate school social work or social welfare program offered by a school accredited by the Council on Social Work Education.

*Accredited school*—A graduate school accredited by the Council on Social Work Education.

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

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

*Client/patient*—An individual, group or family for whom a licensed social worker or licensed clinical social worker provides social work services or clinical social work services. In the case of an individual with a legal guardian, such as a minor or legally incapacitated adult, the individual is the client/patient.

*Immediate family member*—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

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

*Licensed social worker*—A person who is currently licensed as a licensed social worker under section 7 of the act.

*Professional relationship*—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed social worker or licensed clinical social worker and a client/patient and continuing thereafter until the last date of a professional service. If a licensed social worker or licensed clinical social worker sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed social worker or licensed clinical social worker provides a professional service to the client/patient.

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

*Related field*—Includes the fields of psychiatry, psychology, marriage and family therapy, counseling, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

*Sexual intimacies*—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

(i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.

(ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.

(iii) Sexual invitations.

(iv) Soliciting or accepting a date from a client/patient.

(v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed social worker or licensed clinical social worker.

(vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

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

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

*Supervisor*—An individual providing supervision to a supervisee who meets the criteria in § 47.1a (relating to qualifications for supervisors).

### SEXUAL MISCONDUCT

#### § 47.61. Prohibited conduct.

Sexual intimacies between a licensed social worker or licensed clinical social worker and a current client/patient, or an immediate family member of a current client/patient, are prohibited.

#### § 47.62. Former sexual partners as clients/patients.

Licensed social workers and licensed clinical social workers may not accept as client/patients individuals with whom they have engaged in sexual intimacies.

#### § 47.63. Sexual intimacies with a former client/patient or an immediate family member of a former client/patient.

(a) Sexual intimacies between a licensed social worker or licensed clinical social worker and a former client/

patient, or an immediate family member of a former client/patient are prohibited for 7 years following the termination of the professional relationship.

(b) Following the passage of the 7-year period, licensed social workers and licensed clinical social workers may engage in sexual conduct with a former client/patient, or an immediate family member of a former client/patient which is not exploitive. In determining whether the conduct is exploitive, the licensed social worker or licensed clinical social worker shall consider all of the following:

(1) The amount of time that has passed since the professional relationship terminated.

(2) The nature and duration of the therapy.

(3) The circumstances of termination.

(4) The client/patient's personal history—for example, unique vulnerabilities.

(5) The client/patient's current mental status.

(6) Statements or actions made by the licensed social worker or licensed clinical social worker during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient.

(7) The likelihood of adverse impact on the client/patient and immediate family members of the client/patient.

#### § 47.64. Disciplinary proceedings.

(a) A violation of §§ 47.61—47.63 (relating to prohibited conduct; former sexual partners as clients/patients; sexual intimacies with a former client/patient or an immediate family member of a former client/patient) will be deemed unprofessional conduct and will subject the licensed social worker or licensed clinical social worker to discipline under section 11(a)(2) of the act (63 P. S. § 1911(a)(2)).

(b) The consent of a former client/patient or immediate family member of a former client/patient to engage in sexual intimacies with the licensed social worker or licensed clinical social worker is not a defense in any disciplinary action brought under §§ 47.61—47.63.

(c) With the exception of information contained in a professional record, neither opinion evidence, reputation evidence nor specific instances of the past sexual conduct of a former client/patient, or immediate family member of a former client/patient may be admissible in a disciplinary action brought under §§ 47.61—47.63.

(d) In a disciplinary proceeding brought under § 47.63(b), the Board will consider whether there has been exploitation of the client/patient in light of all of the relevant factors enumerated under § 47.63(b)(1)—(7).

#### § 47.65. Impaired professional program.

When the Board takes disciplinary or corrective action against a licensed social worker or licensed clinical social worker under section 11(a) of the act (63 P. S. § 1911(a)), for conduct prohibited by §§ 47.61—47.63 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient, or an immediate family member of a former client/patient), the licensed social worker or licensed clinical social worker will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective action.

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

**GENERAL PROVISIONS**

**§ 48.1. Definitions.**

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

*AAMFT*—The American Association for Marriage and Family Therapy.

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

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

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

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

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

*Client/patient*—An individual, group or family for whom a licensed marriage and family therapist provides marriage and family therapy services. In the case of an individual with a legal guardian, such as a minor or legally incapacitated adult, the individual is the client/patient.

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

*Field closely related to the practice of marriage and family therapy*—Includes the fields of social work, psychology, counseling, child development and family studies, medicine, nursing, pastoral counseling, ministry, theology, education and sociology.

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

*Immediate family member*—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

*Institution of higher education*—An independent institution of higher education, a community college, a State-related institution or a member institution of the State System. (See 22 Pa. Code § 33.102 (relating to definitions)).

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

*MFT*—Marriage and family therapist.

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

*Professional relationship*—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed marriage and family therapist and a client/patient and continuing thereafter until the last date of a professional service. If a licensed marriage and family therapist sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed marriage and family therapist provides a professional service to the client/patient.

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

*Related field*—Includes the fields of psychiatry, psychology, social work, counseling, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

*Sexual intimacies*—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

- (i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.
- (ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.
- (iii) Sexual invitations.
- (iv) Soliciting or accepting a date from a client/patient.
- (v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed marriage and family therapist.
- (vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

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

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

*Supervisor*—An individual providing supervision to a supervisee who meets the criteria in § 48.3 (relating to qualifications for supervisors).

**SEXUAL MISCONDUCT**

**§ 48.21. Prohibited conduct.**

Sexual intimacies between a licensed marriage and family therapist and a current client/patient, or an immediate family member of a current client/patient, are prohibited.

**§ 48.22. Former sexual partners as clients/patients.**

Licensed marriage and family therapists may not accept as client/patients individuals with whom they have engaged in sexual intimacies.

**§ 48.23. Sexual intimacies with a former client/patient or an immediate family member of a former client/patient.**

(a) Sexual intimacies between a licensed marriage and family therapist and a former client/patient, or an immediate family member of a former client/patient are prohibited for 7 years following the termination of the professional relationship.

(b) Following the passage of the 7-year period, licensed marriage and family therapists may engage in sexual conduct with a former client/patient, or an immediate



family member of a former client/patient which is not exploitive. In determining whether the conduct is exploitive, the licensed marriage and family therapist shall consider all of the following:

- (1) The amount of time that has passed since the professional relationship terminated.
- (2) The nature and duration of the therapy.
- (3) The circumstances of termination.
- (4) The client/patient's personal history, for example, unique vulnerabilities.
- (5) The client/patient's current mental status.
- (6) Statements or actions made by the licensed marriage and family therapist during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient.
- (7) The likelihood of adverse impact on the client/patient and immediate family members of the client/patient.

#### § 48.24. Disciplinary proceedings.

(a) A violation of §§ 48.21—48.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient or an immediate family member of a former client/patient) will be deemed unprofessional conduct and will subject the licensed marriage and family therapist to discipline under section 11(a)(2) of the act (63 P. S. § 1911(a)(2)).

(b) The consent of a former client/patient or immediate family member of a former client/patient to engage in sexual intimacies with the licensed marriage and family therapist is not a defense in any disciplinary action brought under §§ 48.21—48.23.

(c) With the exception of information contained in a professional record, neither opinion evidence, reputation evidence nor specific instances of the past sexual conduct of a former client/patient or immediate family member of a former client/patient may be admissible in a disciplinary action brought under §§ 48.21—48.23.

(d) In a disciplinary proceeding brought under § 48.23(b), the Board will consider whether there has been exploitation of the client/patient in light of all of the relevant factors enumerated under § 48.23(b)(1)—(7).

#### § 48.25. Impaired professional program.

When the Board takes disciplinary or corrective action against a licensed marriage and family therapist under section 11(a) of the act (63 P. S. § 1911(a)), for conduct prohibited by §§ 48.21—48.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient, or an immediate family member of a former client/patient), the licensed marriage and family therapist will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective action.

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

#### GENERAL PROVISIONS

##### § 49.1. Definitions.

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

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

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

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

*CACREP*—Council for Accreditation of Counseling and Related Programs.

*Client/patient*—An individual, group or family for whom a licensed professional counselor provides professional counseling services. In the case of an individual with a legal guardian such as a minor or legally incapacitated adult, the individual is the client/patient.

*Doctoral degree in a field closely related to the practice of professional counseling*. Includes one of the following:

(i) Doctoral degrees in social work, psychiatry, psychology, art therapy, dance/movement therapy, drama therapy, music therapy, human services, counseling education and child development and family studies.

(ii) Another doctoral degree in any applied behavioral science which is awarded after successful completion of a master's degree in a field closely related to the practice of professional counseling and that includes advanced (beyond the master's level) clinical instruction and advanced (beyond the master's level) coursework in any five of the educational requirements in § 49.2(1)—(8) (relating to educational requirements).

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

*Immediate family member*—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

*Institution of higher education*—An independent institution of higher education, a community college, a State-related institution or a member institution of the State System. See 22 Pa. Code § 33.102 (relating to definitions).

*Master's degree in a field closely related to the practice of professional counseling includes*—One of the following:

(i) Degrees in social work, psychology, art therapy, dance/movement therapy, drama therapy, music therapy, human services, counseling education and child development and family studies.

(ii) A degree in any applied behavioral science that includes a practicum or internship and meets any five of the educational requirements in § 49.2(1)—(8).

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

*Professional relationship*—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed professional counselor and a client/patient and continuing thereafter until the last date of a professional service. If a licensed professional counselor sees a client/patient on an intermittent basis, the professional rela-

tionship is deemed to start anew on each date that the licensed professional counselor provides a professional service to the client/patient.

*Related field*—Includes the fields of psychiatry, psychology, social work, marriage and family therapy, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

*Sexual intimacies*—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

- (i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.
- (ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.
- (iii) Sexual invitations.
- (iv) Soliciting or accepting a date from a client/patient.
- (v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed professional counselor.
- (vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

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

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

*Supervisor*—An individual providing supervision to a supervisee who meets the criteria in § 49.3 (relating to qualifications for supervisors).

**SEXUAL MISCONDUCT**

**§ 49.21. Prohibited conduct.**

Sexual intimacies between a licensed professional counselor and a current client/patient, or an immediate family member of a current client/patient, are prohibited.

**§ 49.22. Former sexual partners as clients/patients.**

Licensed professional counselors may not accept as client/patients individuals with whom they have engaged in sexual intimacies.

**§ 49.23. Sexual intimacies with a former client/patient or an immediate family member of a former client/patient.**

(a) Sexual intimacies between a licensed professional counselor and a former client/patient, or an immediate family member of a former client/patient are prohibited for 7 years following the termination of the professional relationship.

(b) Following the passage of the 7-year period, licensed professional counselors may engage in sexual conduct with a former client/patient, or an immediate family member of a former client/patient which is not exploitive. In determining whether the conduct is exploitive, the licensed professional counselor shall consider all of the following:

- (1) The amount of time that has passed since the professional relationship terminated.
- (2) The nature and duration of the therapy.
- (3) The circumstances of termination.

(4) The client/patient's personal history, for example, unique vulnerabilities.

(5) The client/patient's current mental status.

(6) Statements or actions made by the licensed professional counselor during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient.

(7) The likelihood of adverse impact on the client/patient and immediate family members of the client/patient.

**§ 49.24. Disciplinary proceedings.**

(a) A violation of §§ 49.21—49.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient or an immediate family member of a former client/patient) will be deemed unprofessional conduct and will subject the licensed professional counselor to discipline under section 1911(a)(2) of the act (63 P. S. §§ 1911(a)(2)).

(b) The consent of a former client/patient or immediate family member of a former client/patient to engage in sexual intimacies with the licensed professional counselor is not a defense in any disciplinary action brought under §§ 49.21—49.23.

(c) With the exception of information contained in a professional record, neither opinion evidence, reputation evidence nor specific instances of the past sexual conduct of a former client/patient or immediate family member of a former client/patient may be admissible in a disciplinary action brought under §§ 49.21—49.23.

(d) In a disciplinary proceeding brought under § 49.23(b), the Board will consider whether there has been exploitation of the client/patient in light of all of the relevant factors enumerated under § 49.23(b)(1)—(7).

**§ 49.25. Impaired professional program.**

When the Board takes disciplinary or corrective action against a licensed professional counselor under section 11(a) of the act (63 P. S. § 1911(a)), for conduct prohibited by §§ 49.21—49.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient, or an immediate family member of a former client/patient), the licensed professional counselor will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective action.

[Pa.B. Doc. No. 06-1542. Filed for public inspection August 11, 2006. 9:00 a.m.]

**Title 61—REVENUE**

**DEPARTMENT OF REVENUE**

**[61 PA. CODE CH. 901]**

**Local Option Small Games of Chance**

The Department of Revenue (Department), under section 9 of the Local Option Small Games of Chance Act (act) (10 P. S. § 319), amends Chapter 901 (relating to small games of chance) to read as set forth in Annex A.

*Purpose of this Final-Form Rulemaking*

This final-form rulemaking contains comprehensive amendments to Chapter 901 to incorporate legislative changes made to the act by the act of December 19, 1990

(P. L. 812, No. 195) (Act 195) and the act of October 18, 2000 (P. L. 602, No. 79) (Act 79). This final-form rule-making also codifies policy and administrative changes regarding games of chance.

#### *Explanation of Regulatory Requirements*

The Department made numerous global changes to Chapter 901 to amend terminology, including deletion of the term "small" in conjunction with the phrase "games of chance." This change amends the regulations to be more consistent with the enabling statute. Examples of other changes include the replacement of "club" with "eligible organization" to be consistent with the change made in Act 195, the replacement of "county" with "licensing authority," the replacement of "registration" with "certificate" and the replacement of "special permit" with "special raffle permit." Numerous minor additions, revisions and deletions (including changes from passive to active voice) are made for clarity and readability throughout Chapter 901.

#### *Subchapter A. General Provisions*

##### *Definitions*

Several amendments to § 901.1 (relating to definitions) bring the definitions into conformity with statutory changes and codify policy and administrative changes. An explanation of each addition or amendment is provided and definitions of the following terms are added for clarity: "applicant," "application," "chance," "license," "licensee," "manufacturer registration certificate or certificate," "nonoperating day," "Office of Attorney General," "pull-tab game," "punch," "registrant," "registration," "special raffle permit" and "State Lottery Law."

The following provisions are referenced in Act 195 and definitions are added to explain the terms: "auxiliary group," "normal business or operating site" and "operating day."

"Bona fide member" is amended to delete references to "club" and adds reference to the term "eligible organization." "Civic and service association" is defined in section 3 of Act 195 (10 P. S. § 313) and is added for use in this chapter. Within this definition, the term "bona fide" is used. For purposes of this chapter, "bona fide" is interpreted according to its common usage that is defined as follows: "in or with good faith, honestly, openly, and sincerely—without deceit or fraud."

"Club" was amended in section 3 of Act 195.

The following terms are defined in section 3 of Act 195 and added for use in this chapter: "daily drawing," "dispensing machine," "eligible organization," "fraternal organization" and "passive selection device."

The following definitions are amended for clarity: "deal," "flare," "manufacturer," "petition," "petitioner" and "punchboard."

"Distributor" is amended to delete references to "small" and "club" and adds reference to "eligible organization."

The following definitions are amended to delete references to "small": "distributor's representative," "manufacturer" and "manufacturer's representative."

"Game of chance or game" is amended for clarity and because of revisions to section 3 of Act 195 and section 3 of Act 79 (10 P. S. § 313).

The following definitions are added for use in this chapter: "hold ticket," "home association" and "seal card."

"Legitimate club purposes" is deleted in accordance with amendments to section 3 of Act 195. The term is replaced with "public interest purposes."

Although "licensed premises" was used in the original enabling statute, it was not defined in the original regulations. The term is again used in Act 195 and a definition is added for clarity.

"Limited occasion license" is added to explain a new type of license authorized in section 10(b.3) of Act 195 (10 P. S. § 320(b.3)).

"Lottery" is deleted in accordance with amendments in section 3 of Act 195.

"Operating week" is added for clarity and use in this chapter. The term replaces the phrase "7-day period."

"Public interest purposes" is defined within the amendments in section 3 of Act 195. The term replaces "legitimate club purpose" and the definition is added for use in this chapter.

"Pull-tab" and "raffle" are amended because of amendments to section 3 of Act 195.

The definition of "responsible person" is amended for clarity, to update references of the term "club" to "eligible organization" and delete references to the term "small."

"Veterans organization" is added because of amendments to section 3 of Act 195.

"Weekly drawing" is added because of amendments to section 3 of Act 79.

##### *General applicability*

Section 901.22 is rescinded because the subject matter is adequately addressed in § 901.701 (relating to games of chance permitted). The existing text of § 901.23 (relating to restriction of sales) is deleted and replaced with more explanatory language regarding the restrictions on sales by a registered manufacturer, a licensed distributor and the purchase of games of chance by an eligible organization. Section 901.23(a) is added to explain that a certificate, license or game of chance that has been denied, suspended, revoked or expired is not valid.

Section 901.28(a)(2) (relating to inspection of premises) is amended to allow inspection when a reasonable belief exists that a violation of the act or Chapter 901 has occurred, is occurring or will occur. Paragraph (3) is amended to specifically provide that an inspection must be limited to the inspection of matters, areas and records associated with games of chance to insure compliance with the act and this part. Subsection (b) is amended to allow the Department or its authorized representatives to make annual inspections for compliance purposes.

Section 901.31 (relating to examination of records) is amended to clarify that an examination of records can be made apart from the examination made during an inspection of the premises. Subsections regarding actions by the district attorney and other law enforcement officials are deleted because they are beyond the scope of these regulations.

Section 901.34 (relating to disputes) is amended to clarify that the retention period for records regarding a dispute about whether the chance is a winning chance, starts at the date of the dispute rather than at the date of resolution.

Proposed § 901.40 is not added in this final-form rulemaking because the language was duplicative of § 901.513 (relating to gambling facilities prohibited).

Proposed § 901.41 is renumbered as § 901.40 (relating to operating days, nonoperating days and operating weeks) as a result of the previous change. This section is added to provide guidance regarding the concept for purposes of game operations.

#### *Administration*

The introductory language in § 901.51 (relating to power and duties) is amended to clarify that the lists of powers and duties are not all inclusive. In addition, paragraph (10) is added to specifically state that the Department has the power and authority to initiate legal proceedings, in law or equity, before any court or tribunal, for purposes of administering or enforcing the provisions of the act or Chapter 901. Other provisions are amended or added for clarity. Subsections (b) and (c) are deleted because they are beyond the scope of these regulations.

#### *Subchapter B. Licensing and Registration*

##### *Manufacturer registration*

Sections 901.101, 901.102 and 901.103(5) (relating to manufacturer registration and game approval required; registration and game approval forms; and manufacturer registration application form contents) are amended by adding language outlining the game approval process.

Section 901.103(2) is deleted and replaced with more explanatory language regarding the application requirements for games of chance manufacturers.

Section 901.103a (relating to change of application information) is added to provide that a manufacturer shall report changes to the information supplied in its application to the Department within 15 days of the change.

Section 901.106 (relating to registration term) is amended to specifically detail the manufacturer's registration term.

Section 901.107 (relating to annual applications) is amended to give the Department 60 days to process registration applications prior to the end of the registration term as permitted under § 901.118 (relating to registration decision time limit). With this amendment, a manufacturer that complies should not have a break in registration coverage.

Section 901.109 (relating to certificate) is amended to explain that a manufacturer's certificate must be maintained on the manufacturer's premises and available for inspection upon request of certificate.

Section 901.112 is rescinded because the topic is addressed in § 901.23(a)(2).

Section 901.113(a) (relating to representatives of manufacturer) is deleted because the topic is addressed in § 901.23(a)(2).

To bring § 901.114 (relating to dissolutions, terminations, mergers and bankruptcies) into conformity with § 901.148 (relating to dissolutions, terminations, mergers and bankruptcies), the section is amended by adding subsection (b), which provides that a notice of the decision to dissolve is required even if filing is not required.

Consistent with amendments to §§ 901.101 and 901.102 regarding game approval, § 901.117(a) (relating to denial, notice of violation and revocation) is amended by adding to the enumerated acts for which the Department has the authority to deny an application for a

certificate, provide a notice of violation or revoke a certificate. Subsection (b) is added to provide that the Department may deny an application for a game of chance approval and may provide a notice of violation or revoke an approved game of chance if the game fails to meet the requirements of the act or Chapter 901. The addition of subsection (c) sets forth that a manufacturer in violation with the act or this part will be notified of the violation and has an opportunity to remedy the violation.

Section 901.117a (relating to registration following revocation) is added to provide guidance on the length of time a manufacturer whose certificate is revoked is ineligible to apply for and receive another certificate for a first, second, third and subsequent revocation.

Section 901.119 (relating to raffle, daily drawing and weekly drawing ticket manufacturers) is amended to clarify that §§ 901.101—901.118 do not apply to manufacturers who only produce and sell raffle, daily drawing and weekly drawing tickets.

##### *Distributor licensing*

Section 901.132 (relating to license application form) is amended to clarify that to obtain a license, a distributor must submit a license application to the Department.

Section 901.133(a) (relating to distributor license application form contents) is added to provide that a distributor shall report any changes to the information supplied in its application to the Department within 15 days of the change.

Section 901.136 (relating to license term) is amended to provide a more accurate description of a distributor license term.

Section 901.137 (relating to annual application) is also completely amended to give the Department 60 days to process license applications prior to the end of the licensing term as permitted under § 901.152 (relating to licensing decision time limits). Thus, a distributor that complies with the licensing terms should not have a break in licensing coverage.

Section 901.142(a) (relating to distributor's representative) is deleted because the topic is addressed in § 901.23(b)(2). The remaining text is reformatted accordingly.

Section 901.150 (relating to changes in ownership or personnel) is amended by requiring changes in responsible persons to be reported to the Department within 15 days of the deletion or addition. The time period in which to make the report is amended to provide the Department with more current information.

Section 901.151 (relating to denial, notice of violation and revocation of licenses) is amended by adding clarifying language to new subsection (a) and by adding subsections (b) and (c), regarding notice of violation and notice. The notice of violation and notice provisions are consistent with those added to § 901.117 for manufacturers.

Section 901.151a (relating to licensing following revocation) is added to provide guidance on the length of time a distributor whose license is revoked is ineligible to apply for and receive another license for a first, second, third and subsequent revocation.

Section 901.153 (relating to raffle, daily drawing and weekly drawing ticket distributors) is amended to clarify that §§ 901.131—901.152 do not apply to distributors who only sell raffle, daily drawing and weekly drawing tickets.

*Board procedures*

Sections 901.161, 901.165 and 901.168 (relating to jurisdiction and purpose; board practice and procedure; and stay of appeal) are amended to revise the wording to make it consistent with amendments being made throughout Chapter 901.

*Eligible organization licensing*

Sections 901.181—901.190 are rescinded.

Section 901.191 (relating to license application form) is amended to reflect the changes to section 10 of Act 195, including the addition of paragraph (20) requiring a list of the eligible organization's auxiliary groups which may operate games of chance under the eligible organization's license.

Sections 901.192—901.194 are rescinded.

With the addition of the limited occasion license under section 10(b.3) of Act 195, the Department added § 901.195 (relating to types of licenses) to distinguish between a game of chance and limited occasion license and to clarify that an eligible organization may only hold one type of license at a time.

Section 901.196 (relating to limited occasion license requirements, limits and restrictions) is also added to provide information on the use of a limited occasion license and related restrictions.

Section 901.197 (relating to change of application information) is added to provide that an eligible organization shall report any changes to the information supplied on its license application to the licensing authority within 15 days of the change.

Sections 901.211—901.219 are rescinded.

*Subchapter C. Local Option**Local option requirement and local option reporting*

Consistent with section 10(g) of Act 195, § 901.309 (relating to public information) is amended to acknowledge that information regarding the approval or disapproval of games of chance by local referendum can be obtained from the licensing authority and the county board of elections.

*Subchapter D. Recordkeeping**County records and reports*

Sections 901.401—901.404 and 901.406 are rescinded.

The Department is deviating from standard drafting rules in §§ 901.405 and 901.407 (relating to list of licensed eligible organizations; and list of municipalities) in that when "shall" would normally be used, it is instead using "will," since the provisions are those of the licensing authority and the use of "will" is appropriate when the licensing authority is pledging to act. To bring § 901.405 into conformity with the enabling statute, the section is amended to state that the licensing authority will submit, on a biannual basis, a copy of all information regarding licensees to the Department. The section is further amended to require the information to include the type of license and any special raffle permit serial number.

Although some of these rules are noted elsewhere, new § 901.407 provides the licensing authority with a central place to reference the rules regarding the maintenance of a list of municipalities that have approved the referendum question on games of chance.

*Manufacturing records and reports*

Section 901.423 (relating to annual records) adds clarification language for maintaining annual records for no less than 5 years.

The existing text of § 901.425(1)(iv) (relating to records) is amended to include that each game listed on the invoice which the Department has approved for sale must be clearly noted.

*Distributor records and reports*

Section 901.443 (relating to annual records) adds clarification language for maintaining annual records for no less than 5 years.

*Licensed eligible organization records*

Section 901.461 (relating to annual records) adds language to conform to the statutory requirement of a 2-year record retention requirement for annual records of licensed eligible organizations.

For consistency with the rules regarding record requirements for raffles and daily drawings, paragraph (9) is added to § 901.464 (relating to punchboard and pull-tab records) to require a list of winners' names and addresses for prizes in excess of \$100.

The definition of "games of chance" was broadened by section 3 of Act 195 to include daily drawings and by section 3 of Act 79 to include weekly drawings. Section 901.464a (relating to daily and weekly drawing records) is added to provide guidance regarding recordkeeping requirements for each of these games.

*Subchapter E. Prohibited Activities/Penalties**Prohibited activities*

In accordance with section 15 of Act 195 (10 P. S. § 325), § 901.501 (relating to advertising) is amended to provide that an eligible organization may advertise prizes and values thereof in periodic publications that are limited in circulation to members of the eligible organization.

Section 901.502(c) (relating to persons) is amended to reflect changes to section 10(d)(2) of Act 195 regarding conviction of a felony or a violation of the Bingo Law (10 P. S. §§ 301—308.1).

Act 195 amended section 10(d)(3) by deleting the requirement that the persons conducting the games of chance be bona fide members of the club for at least 1 year. Therefore, § 901.504 (relating to persons who may conduct games) is amended to delete the 1-year requirement.

To be consistent with the prize limitation exceptions for both a daily drawing and weekly drawing in section 5(f) and (g) of Act 195 (10 P. S. § 315(f) and (g)) and section 5(g) and (h) of Act 79 (10 P. S. § 315(g) and (h)), §§ 901.507 and 901.508 (relating to prizes in excess of \$500; and prizes in excess of \$5,000) are amended.

Act 195 amended section 10(d)(7) regarding the use of a licensed eligible organization's premises by another licensed eligible organization. Section 901.510 (relating to use of licensed premises by more than one organization) is amended to incorporate the new statutory guidelines in this area.

Section 901.512 (relating to oral and written leases) is added to address the provisions of section 10(b.1) and (d)(5) of Act 195.

Section 901.513 is added to address the provisions of section 10(b.4) of Act 195.

### *Penalties*

To be consistent with the amendments to section 17 of Act 195 (10 P. S. § 327) regarding penalties for violations of the provisions of the act by eligible organizations and individuals, §§ 901.531 and 901.532 (relating to eligible organizations; and individuals) are amended.

### *Subchapter F. Manufacturing Standards*

#### *Pull-tab manufacturing standards*

Section 901.601(a) (relating to uniform minimum quality standards) is amended to correct the reference to the North American Gaming Regulations Association publication regarding manufacturing standards for pull-tab games and to provide clarity with regard to the application of the standards.

Section 901.601(c) is added to provide guidance for the randomization of pull-tabs in a deal so as to eliminate any pattern in the location of winning pull-tabs.

Sections 901.602 and 901.621 (relating to flares) are amended to clarify who can make a flare and who can alter a flare.

Sections 901.608 and 901.627 (relating to standards for flares) are amended to clarify the regulations regarding flares.

#### *Punchboard manufacturing standards*

Section 901.622 (relating to standards for construction) is amended by adding paragraph (1) to describe four general construction guidelines regarding the punchboard face sheet, flare, serial numbers and punches. The existing paragraphs are renumbered accordingly.

Section 901.631 (relating to subcontracting and manufacturer responsibility) is added to provide guidance to subcontractors of games of chance and registered manufacturers who elect to subcontract the manufacturing or production of games of chance.

Section 901.632 (relating to predetermination of rules, winning chances and prizes) is added to provide that a manufacturer of pull-tab games or punchboards must predetermine the rules and prizes.

Section 901.633 (relating to the prohibitions against participant control of winning chances or prizes) is added to explain that a participant who purchases a chance in the game is prohibited from controlling, effecting or choosing the winning chances or the corresponding prizes.

### *Subchapter G. Operation of Games*

#### *Eligible organization operation of games*

Section 901.701(c) is added to explain that a participant who purchases a chance in a game is prohibited from controlling, effecting or choosing the winning chances or corresponding prizes.

Section 901.701a (relating to license required) reflects various licensing revisions. Subsection (a) is added to explain that an eligible organization may not conduct or operate games of chance without a valid license. Subsection (b) is added to explain the licensing requirements pertinent to auxiliary groups.

Section 901.701b (relating to display) is added to explain that a licensed eligible organization is required to display its license at the site where it conducts games of chance.

Section 901.701c (relating to location of games) is added to provide guidance to eligible organizations regarding the location of games.

Section 901.702 (relating to prize limits) is amended to reflect various statutory revisions. The total cash value of prizes that can be awarded under special raffle permits in § 901.702(d) is amended to reflect the statutory change in section 5(d)(4) of Act 79. Subsection (e) is added to explain the prize limit exceptions for daily drawings in section 5(e)—(g) of Act 79. Subsection (f) is added to explain the prize limit exceptions for weekly drawings in section 5(g) and (h) of Act 79.

Section 901.703 (relating to place of conduct) is amended to reflect the statutory changes in section 10(b.1) and (b.2) of Act 195 regarding where games of chance can be conducted.

Section 901.704 (relating to licensed premises) is amended to reflect the new statutory provisions regarding the location of games of chance in section 10(b.1) and (d)(5) of Act 195.

Section 901.705 (relating to purchase of games) is amended to incorporate the statutory change in section 10(d)(6) of Act 79 (10 P. S. § 320(d)(6)) regarding the purchase of weekly drawings.

Section 901.706 (relating to persons who may not operate or play games of chance) is amended to reflect the changes in section 10(d)(1) and (2) of Act 195 regarding persons permitted to operate or play games of chance and the conviction of a felony or a violation of the Bingo Law.

The 1-year membership requirement in § 901.708 (relating to persons who may conduct games of chance) is deleted in accordance with the amendment to section 10(d)(3) of Act 195.

Section 901.709 (relating to one eligible organization per premises) is amended to reflect section 10(b.1) of Act 195 regarding the use of a premises by more than one eligible organization.

With the deletion of section 11(c) in Act 195 (10 P. S. § 321(c)), regarding the prohibition of use of a licensed premises by more than one licensed club for a special raffle permit in a calendar year, § 901.711 is rescinded.

Section 901.712 (relating to raffle, daily drawing and weekly drawing game rules and prizes) is added to describe the guidelines an eligible organization must establish prior to conducting a raffle, daily drawing or weekly drawing.

#### *Punchboards and pull-tab operation procedures*

Section 901.731(b) (relating to punchboard and pull-tab operation) is amended by placing the current text in paragraph (1) and adding paragraph (2) to describe under what conditions a licensed eligible organization may alter a flare. Subsection (e)(3) is deleted and replaced with more explanatory language regarding the procedure that will be used to preserve the randomization of a pull-tab deal. Subsection (e)(5) is added to explain that deals may not be commingled.

#### *Raffles*

With the removal of the restriction on sales of raffle tickets in section 10(d)(4) in Act 195, § 901.742 (relating to drawing dates) is amended to provide guidance on the new rules regarding raffle drawing dates consistent with the definition of "raffle" as amended in section 3 of Act 195.

Section 901.743(b) (relating to raffle tickets) provides that, generally, each part of a raffle ticket must be imprinted with sequential numbers beginning with the number "1" through the maximum number of tickets to be sold. Subsection (b) is amended to clarify that when a

raffle winner is determined by a drawing of the Pennsylvania State Lottery, the universe of eligible ticket numbers shall correspond to the universe of eligible numbers in the Pennsylvania State Lottery drawing.

Consistent with the change to the definition of "raffle" in section 3 of Act 195, § 901.745 (relating to printing requirements) is amended to provide that dates, times and locations of the drawings shall be printed on each raffle ticket sold.

Section 901.751 (relating to ticket sales) is amended to incorporate the new rules regarding the sale of raffle tickets in a municipality located in a county other than the county in which the eligible organization is licensed in section 10(d)(8) of Act 195.

In accordance with the provisions in the definitions of "passive selection device" and "raffle" in section 3 of Act 195, § 901.753 (relating to means of determining winning numbers) is added to provide guidance in this area.

#### *Lotteries*

Because lotteries are no longer considered a separate game of chance, but rather a type of raffle under the amendments to the definitions of "games of chance," "lottery" and "raffle" in section 3 of Act 195, §§ 901.761—901.778 are rescinded.

#### *Daily drawings*

Sections 901.781—901.786 (relating to daily drawings) are added to provide guidance regarding the rules for daily drawings, which were authorized by Act 195.

#### *Weekly drawings*

Sections 901.791—901.796 (relating to weekly drawings) are added to provide guidance regarding the rules for weekly drawings, which were authorized by Act 79.

#### *Subchapter H. Special Raffle Permits*

##### *Special raffle permits*

The heading of § 901.801 (relating to prize limits) is corrected to reference "prize limit" and the section is amended to reflect the amendment to section 5(d)(4) of Act 79 regarding the total cash value permitted of all special raffle permit prizes for the calendar year.

In accordance with the repeal of section 12(a)(13) of Act 195 (10 P. S. § 322(a)(13)), § 901.802 (relating to raffle number limit) is amended to delete the second sentence, which provided that an eligible organization may hold only one raffle per month, including a special permit raffle.

Section 5(d)(2) was amended by Act 195 to provide an exception to the general rule that an eligible organization shall be eligible to receive no more than two special permits in any licensed year for volunteer fire, ambulance and rescue organizations. Section 901.803 (relating to special raffle permit limit) is amended to reflect this change in eligibility.

Section 901.806 (relating to required permit) is amended to clarify the special raffle permit requirements.

Sections 901.807 and 901.811 are rescinded.

#### *Affected Parties*

Manufacturers and distributors of games of chance doing business in this Commonwealth, licensing authorities and eligible organizations may be affected by the final-form rulemaking.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 34 Pa. B. 5563 (October 9, 2004).

The Department has prepared a comment and response document that is available to interested parties by contacting Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

In response to the proposed rulemaking, the Department received numerous comments. In their evaluation of the proposed rulemaking, the Independent Regulatory Review Commission (IRRC) provided a majority of the comments. In addition, the Department received various comments from both the public and the Senate Finance Committee. The Department did not receive any comments from the House Finance Committee. Following is a summary of the Department's reaction to the key issues referenced in the comments:

Provisions for "licensing authorities" have been deleted from this final-form rulemaking. To provide guidance to licensing authorities, the Department has developed "SGOC Licensing Authority Model Rules" for county treasurers.

Proposed Subchapter I was deleted from this final-form rulemaking. The Department agreed with IRRC and recognized that the purpose of a regulation is to place specific duties or obligations on an agency and the regulated community. The intent of Subchapter I was merely informational and will be published through Department informational systems and publications.

In accordance with §§ 901.117 and 901.151, rather than suspending a manufacturer or distributor's license, the Department will send a notice of violation, describing the infraction and providing a time limit for its correction.

For purposes of clarity, numerous definitions have been added to § 901.1 in this final-form rulemaking.

#### *Fiscal Impact*

The Department has determined that the final-form rulemaking, which provides clarification of existing policy, will have no significant fiscal impact on the Commonwealth.

#### *Paperwork*

The final-form rulemaking will not generate additional paperwork for the public or the Commonwealth.

#### *Effectiveness/Sunset Date*

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

#### *Contact Person*

The contact person for an explanation of this final-form rulemaking is Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 29, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 5563, to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 5, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 6, 2006, and approved the final-form rulemaking.

*Findings*

The Department finds that:

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

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

*Order*

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

(a) The regulations of the Department, 61 Pa. Code, are amended by:

1) Amending §§ 901.1, 901.21, 901.23, 901.25, 901.26, 901.28, 901.30—901.32, 901.34—901.38, 901.51, 901.52, 901.101—901.103, 901.104, 901.106, 901.107—901.111, 901.113, 901.114, 901.117, 901.119, 901.131—901.133, 901.136—901.144, 901.146—901.151, 901.153, 901.161, 901.165, 901.168, 901.191, 901.307—901.309, 901.405, 901.421, 901.423, 901.425, 901.441, 901.443, 901.445, 901.461, 901.462, 901.464, 901.465, 901.466, 901.501—901.511, 901.531—901.533, 901.535, 901.601, 901.602, 901.608, 901.621, 901.622, 901.627, 901.701, 901.702—901.710, 901.731, 901.733, 901.734, 901.741—901.746, 901.748, 901.749, 901.751, 901.752, 901.801—901.806, 901.808 and 901.810; by

2) Deleting §§ 901.22, 901.24, 901.112, 901.181—901.190, 901.192—901.194, 901.211—901.219, 901.401—901.404, 901.406, 901.711, 901.761—901.778, 901.807 and 901.811; and by

3) Adding §§ 901.23a, 901.40, 901.103a, 901.117a, 901.133a, 901.151a, 901.195—901.197, 901.407, 901.464a, 901.512, 901.513, 901.631—901.633, 901.701a—901.701c, 901.712, 901.753, 901.781—901.786 and 901.791—901.796 to read as set forth in Annex A.

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

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

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

GREGORY C. FAJT,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)*

**Fiscal Note:** Fiscal Note 15-425 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 61. REVENUE**

**PART VII. LOCAL OPTION SMALL GAMES OF CHANCE**

**CHAPTER 901. LOCAL OPTION SMALL GAMES OF CHANCE**

**Subchapter A. GENERAL PROVISIONS**

**DEFINITIONS**

**§ 901.1. Definitions.**

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

*Act*—The Local Option Small Games of Chance Act (10 P. S. §§ 311—327).

*Applicant*—A person who prepares and files an application.

*Application*—A form prescribed by the Department that a manufacturer, distributor or eligible organization shall complete and file to obtain a license or certificate.

*Auxiliary group*—

(i) A division, subsidiary or affiliated organization or association, incorporated or unincorporated, of an eligible organization whose business and operation is subject to and restricted by the bylaws, rules, regulations and procedures of the eligible organization and that is established solely for the purpose of aiding or assisting the eligible organization and its members in the fulfillment of the eligible organization's purposes.

(ii) The term does not include home associations.

*Bingo Law*—The Bingo Law (10 P. S. §§ 301—308.1).

*Board*—The Small Games of Chance Board of the Department.

*Bona fide member*—An individual who holds a membership in the eligible organization as defined by that organization's constitution, charter, articles of incorporation or bylaws.

*Chance*—A right purchased for consideration to participate in a game for a prize offered in the game, which right is represented by a tangible item such as a ticket, document, paper or other item.

*Charitable organization*—A not-for-profit group or body of persons which is created and exists for the purpose of performing a humane service; promoting the welfare of the aged, poor, infirm or distressed; combating juvenile delinquency or advancing the spiritual, mental, social and physical improvement of young men and women. The term includes the YMCA and YWCA.

*Civic and service association*—

(i) Any Statewide or a branch, lodge or chapter of a nonprofit National or State organization which is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a civic or service purpose within this Commonwealth, which has existed in this Commonwealth for 1 year.

(ii) The term also includes a similar local nonprofit organization, not affiliated with a National or State organization, which is recognized by a resolution adopted by the governing body of the municipality in which the organization conducts its principal activities.



(iii) The term includes:

(A) Bona fide sportsmen's and wildlife associations, federations or clubs, Statewide or local in nature.

(B) Volunteer fire companies.

(C) Volunteer rescue squads.

(D) Volunteer ambulance associations.

(E) Bona fide senior citizens organizations.

(F) Nonprofit organizations that are recognized by a resolution adopted by the appropriate governing body and which are established to promote and encourage participation and support for extracurricular activities within the established primary and secondary public, private and parochial school systems.

*Club*—As defined in section 102 of the Liquor Code (47 P. S. § 1-102), that qualifies as an exempt organization under section 501(c) or 527 of the Internal Revenue Code of 1954 (26 U.S.C.A. § 501(c) or § 527) and is licensed to sell liquor at retail and has a charitable, religious or civic purpose or is organized to benefit a political party.

*Daily drawing*—

(i) A game in which a bona fide member selects or is assigned a number in exchange for consideration for a chance at a prize with the winner determined by a random drawing to take place on the eligible organization's premises during the same operating day that the chances for the drawing are sold.

(ii) The term includes games commonly known as "member sign-in lotteries" and "half-and-half lotteries."

*Deal*—A set of pull-tabs or punches bearing the same serial number.

*Department*—The Department of Revenue of the Commonwealth.

*Deputy Secretary*—A deputy secretary of the Department.

*Dispensing machine*—

(i) A device designed exclusively for the dispensing of games of chance authorized by the act, including ticket jars, fish bowls and stamp machines.

(ii) The term does not include any device commonly known as a "slot machine" or "video poker" or any device that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols or characters in winning or losing combinations.

*Distributor*—A person who purchases or otherwise obtains games of chance, including punchboards or pull-tabs, from a manufacturer and sells or otherwise furnishes the games of chance, with or without merchandise to be awarded as prizes in connection therewith, to another person for the resale, display or operation of the games of chance by a licensed eligible organization.

*Distributor's representative*—

(i) A natural person who represents a distributor in connection with the sale or furnishing of games of chance for use in authorized activities.

(ii) The term includes the distributor's sales personnel.

(iii) The term does not include warehouse personnel, delivery personnel and other employees who only have incidental contact with customers.

*Eligible organization*—An organization that meets all of the following:

(i) Nonprofit.

(ii) Charitable organization, religious organization, fraternal organization, veterans organization, club or civic and service association.

(iii) In existence and fulfilling its purposes for 1 year prior to the date of application for a license.

*Flare*—A card, graphic, illustration or other document that is part of a pull-tab game or punchboard and satisfies the requirements of § 901.608 or § 901.627 (relating to standards for flares), respectively.

*Fraternal organization*—An organization within this Commonwealth created and carried on for the mutual benefit of its members, has a limited membership and a representative form of government and is a branch, lodge or chapter of a National or State organization.

*Game of chance or game*—

(i) The following games: punchboards, daily drawings, weekly drawings, raffles and pull-tab games.

(ii) The term includes all of the parts, accessories and items necessary to play such games. The term also includes dispensing machines and passive selection devices.

(iii) The term does not include a game played by or with the assistance of mechanical, electronic or electrical devices or media or a game in which the particular chance taken by a person in the game is made contingent upon another occurrence or the winning of another contest.

(iv) This definition does not authorize another form of gambling currently prohibited under 18 Pa.C.S. (relating to the Crimes Code).

(v) The term does not include games commonly known, as "slot machines" or "video poker."

*Hold ticket*—A pull-tab or punch in a subset of pull-tabs or punches in a deal one or more of which are designated in advance as a winning pull-tab or punch for a specific prize. The winning pull-tab or punch is revealed after all hold tickets are purchased. Hold tickets are typically used in conjunction with seal cards.

*Home association*—A corporation, association or other organization organized under the laws of the Commonwealth by a veterans organization in conformity with its local, State or National bylaws and meets all of the following:

(i) Affiliated with the veterans organization.

(ii) Has a separate legal existence from the veterans organization.

(iii) Accepts into its membership persons who are not eligible for membership in the veterans organization.

(iv) The board of directors, officers and members with voting rights or other controlling interests consist solely of bona fide veterans organization members.

*Ideal prizes*—The maximum amount to be awarded in prizes if the game of chance is played to its fullest, all plays are sold and all potential prizes are awarded.

*Law enforcement official*—A municipal police officer, a member of the State Police, the sheriff of a county or a deputy sheriff.

*License*—A document issued by:

(i) The Department, upon application, to a distributor authorizing the distributor to purchase games of chance from a registered manufacturer and sell games of chance in this Commonwealth to licensed eligible organizations, also known as a distributor's license.

(ii) A licensing authority, upon application, to an eligible organization authorizing the eligible organization to purchase games of chance from licensed distributors and conduct games of chance in this Commonwealth, on a yearly basis, known as a game of chance license, or on a limited basis, known as a limited occasion license.

*Licensed premises*—The specific location upon which a licensed eligible organization is authorized to conduct games of chance.

*Licensee*—A distributor or eligible organization that has been issued a license.

*Licensing authority*—The county treasurer, or in a home rule county or city of the first class, where there is no elected treasurer, the designee of the governing authority.

*Limited occasion license*—A license issued by a licensing authority to an eligible organization authorizing the organization to conduct games of chance on a limited basis.

*Manufacturer*—

(i) A person who assembles from raw materials or subparts a completed game of chance for use in authorized activities, and who sells or otherwise furnishes the same to a licensed distributor.

(ii) The term does not include printers of only raffle, daily drawing or weekly drawing tickets.

*Manufacturer registration certificate or certificate*—A document issued by the Department, upon application, to a manufacturer authorizing the manufacturer to sell games of chance that the Department has approved to distributors licensed to sell games of chance in this Commonwealth.

*Manufacturer's representative*—

(i) A natural person who represents a manufacturer in connection with the sale or furnishing of games of chance for use in authorized activities.

(ii) The term includes the manufacturer's sales personnel.

(iii) The term does not include warehouse personnel, delivery personnel and other employees who only have incidental contact with the customers.

*NAGRA*—The North American Gaming Regulators Association or its successors.

*Nonoperating day*—A period of time equivalent to an eligible organization's operating day except that the eligible organization is closed to normal activities or to its members during that period of time.

*Normal business or operating site*—The location at which an eligible organization conducts its activities as permitted and enumerated in its constitution, charter, articles of incorporation, bylaws or other document of formation.

*Office of Attorney General*—The Attorney General of the Commonwealth of Pennsylvania.

*Operating day*—The period of time during any 24 hour period during which an eligible organization conducts its normal activities or holds itself open to its members.

*Operating week*—Seven consecutive operating days or nonoperating days.

*Passive selection device*—A device that is used to hold or denote all of the possible winning numbers or entrants in a daily drawing, weekly drawing or raffle. The device may not have the capability of being utilized to conduct or aid in unauthorized or illegal forms of gambling.

*Person*—A natural person, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership, conservator, the Commonwealth or a political subdivision or instrumentality of the Commonwealth or of another state or the Federal government or officers thereof.

*Petition*—A written statement of facts, under oath, submitted by one of the following:

(i) A manufacturer or distributor who disagrees with the Department's decision to deny or refuse to renew its application.

(ii) A registered manufacturer or licensed distributor who disagrees with the Department's decision to revoke his certificate or license.

*Petitioner*—A manufacturer or distributor who files a petition.

*Public interest purposes*—

(i) Any of the following:

(A) Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical, emotional or social well-being, by assisting them in establishing themselves in life as worthy and useful citizens or by increasing their comprehension of and devotion to the principles upon which this nation was founded.

(B) Initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures.

(C) Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which the government would normally render to the people.

(D) Improving, expanding, maintaining or repairing real property owned or leased by an eligible organization and used for purposes specified in clauses (A)—(C).

(ii) The term does not include the erection or acquisition of any real property, unless the property will be used exclusively for one or more of the purposes specified in this definition.

*Pull-tab*—A game piece in a pull-tab game made completely of paper or paper products with concealed numbers or symbols that must be exposed by the player to determine wins or losses.

*Pull-tab game*—A deal of pull-tabs and its corresponding flare.

*Punch*—A crimped strip of paper or similar material that is enclosed in a punchboard receptacle and contains either a winning or losing number or symbol printed on one side and a serial number printed on the other.

*Punchboard*—A board, placard or other device comprised of receptacles, usually laid out in a grid or column pattern, containing a deal of hidden punches and its corresponding flare. Upon the payment of consideration, a player may select and remove the punches contained in a receptacle. A prize is awarded to a player who selects a receptacle containing a punch with a predetermined winning number or symbol.

*Raffle*—

(i) A game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing of corresponding ticket stubs to take place at a location and date or dates printed upon each ticket.

(ii) The term includes lotteries but not daily or weekly drawings.

(iii) The term does not include the paying of money or merchandise at roulette wheels, at cards, dice, other tables or another form of gambling not specifically authorized by law.

*Registrant*—A manufacturer who is issued a manufacturer registration certificate.

*Registration*—The process of applying to the Department for a manufacturer registration certificate.

*Religious organization*—A not-for-profit group or body of persons which is created and exists for the predominant purpose of regularly holding or conducting religious activities or religious education, without pecuniary benefit to an officer, member or shareholder, except as reasonable compensation for actual services rendered to the organization.

*Responsible person*—A person who is connected or associated with an eligible organization, distributor or manufacturer in a manner that meets at least one of the following criteria:

(i) Has the control, receipt, custody or disposal of or pays the compensation of an employee.

(ii) Has the control, receipt, custody or disposal of the games of chance proceeds.

(iii) Has the control, receipt, custody and disposal of available cash on hand or other quick or liquid assets or pays the liabilities of the eligible organization, manufacturer or distributor.

(iv) Has the duty, power or authority to do one of the following:

(A) Direct the deduction and withholding of tax.

(B) Direct the collection and payment of sales and use tax.

(C) Control the financial affairs of the entity.

(D) Direct the payment of the entity's liabilities.

(E) Direct the payment of the tax deducted and withheld from the compensation of an employee.

(F) Direct the disposition and use of games of chance proceeds.

(G) Account for and report tax deducted and withheld from the compensation of an employee.

(H) Direct the filing of State tax reports and returns.

(I) Direct the payment of State taxes.

(J) Direct the transaction involved with the sale, manufacture or use of games of chance.

(v) Is an eligible organization's manager, officer, director or bar personnel involved with the conduct of games of chance.

*Seal card*—A board or placard that contains a seal or seals that, when removed or opened, reveal predesignated winning numbers, letters or symbols.

*Secretary*—The Secretary of the Department.

*Seven-day period*—The period of days Monday through Sunday.

*Special raffle permit*—A document issued by a licensing authority to a licensed eligible organization that authorizes the eligible organization to conduct a raffle with prize limits exceeding the standard prize limits for raffles.

*Stamp machine*—A device designed exclusively to dispense preprinted pull-tab tickets which does not make a change to, mark on or alter in any way the ticket placed in the device. The device may not print or produce tickets in any manner. The term is also known as a vending machine for pull-tab tickets.

*State Lottery Law*—The State Lottery Law (72 P. S. §§ 3761-101—3761-2102).

*Veterans organization*—

(i) A Congressionally chartered organization within this Commonwealth, or any branch or lodge or chapter of a nonprofit National or State organization within this Commonwealth, the membership of which consists of individuals who were members of the armed services or armed forces of the United States.

(ii) The term includes home associations.

*Weekly drawing*—A game in which a bona fide member selects or receives a number or numbers in exchange for consideration during an operating week for a chance at a prize with the winner determined by a random drawing to take place on the eligible organization's premises on the last operating day of the eligible organization's operating week.

## GENERAL APPLICABILITY

### § 901.21. Applicability.

This part applies to manufacturers and distributors who sell or intend to sell games of chance in this Commonwealth and to eligible organizations located in municipalities within this Commonwealth which have adopted the act by an affirmative vote in a municipal referendum under the act.

### § 901.22. (Reserved).

### § 901.23. Restriction of sales.

(a) *Manufacturers.*

(1) *Registration.* A manufacturer shall register with the Department and obtain a manufacturer registration certificate to sell, offer for sale or furnish games of chance for use in this Commonwealth. This paragraph does not apply to manufacturers that only sell, offer for sale or furnish raffle, daily drawing or weekly drawing tickets for use in this Commonwealth.

(2) *Sales.* A registered manufacturer may only sell, offer for sale or furnish games of chance that have been approved by the Department for sale in this Commonwealth. A registered manufacturer may only sell, offer for sale or furnish approved games of chance for sale in this

Commonwealth to a licensed distributor. This paragraph does not apply to the sale of raffle, daily drawing or weekly drawing tickets.

(b) *Distributors.*

(1) *Licensure.* A distributor shall apply for and obtain from the Department a distributor license to sell, offer for sale or furnish games of chance in this Commonwealth. This paragraph does not apply to distributors that only sell, offer for sale or furnish raffle, daily drawing or weekly drawing tickets.

(2) *Sales.* A licensed distributor may only sell, offer for sale or furnish approved games of chance for use within this Commonwealth to another licensed distributor or a licensed eligible organization. This paragraph does not apply to the sale of raffle, daily drawing or weekly drawing tickets.

(3) *Purchase.* A licensed distributor may only purchase approved games of chance for resale in this Commonwealth from a registered manufacturer or licensed distributor. This paragraph does not apply to the purchase of raffle, daily drawing or weekly drawing tickets.

(c) *Eligible organizations.*

(1) *Licensure.* An eligible organization shall apply for and obtain a games of chance license from the licensing authority in the county where it shall maintain its licensed premises before purchasing games of chance for use in this Commonwealth.

(2) *Purchase.* A licensed eligible organization may not purchase or lease games of chance for use in this Commonwealth except from a licensed distributor. This paragraph does not apply to the purchase of raffle, daily drawing or weekly drawing tickets.

**§ 901.23a. Effect of denial, suspension, revocation, expiration of a certificate, license or game of chance.**

A certificate, license or game of chance that has been denied, suspended or revoked or that has expired is not a valid certificate, license or game of chance. A person, applicant for or holder of a certificate or license or owner of a game of chance cannot avail himself of the privileges that the act and this part confers upon a holder of a valid certificate or license or an approved game of chance following a denial, suspension or revocation.

**§ 901.24. (Reserved).**

**§ 901.25. Vested rights.**

A certificate or license confers only a privilege on the holder. A certificate or license confers no vested right in the privilege so conferred.

**§ 901.26. Background checks.**

(a) As a condition precedent to the issuance of a license or certificate, the Department may require background checks on a person seeking a license or for whom a certificate is sought, or employees thereof, or of a person participating as an employee who will be involved in the operation of games of chance or a person with equity ownership of 10% or more.

(b) The applicant or the person for whom a license or certificate is requested shall cooperate with the Department and assist in its investigation.

**§ 901.28. Inspection of premises.**

(a) Licensed premises, or premises relating to or being used for activities conducted under the act and this part by a licensed eligible organization, registered manufact-

urer or licensed distributor shall be open to inspection by the Department or its authorized representatives with or without prior notice, but the inspection shall:

(1) Take place during the registrant's or licensee's normal business hours or normal operating hours.

(2) Take place only when a reasonable belief exists that a violation of the act or this part has occurred, is occurring or will occur.

(3) Be limited to the inspection of matters, areas and records associated with games of chance to insure compliance with the act and this part.

(b) The Department or its authorized representatives reserve the right to enter and make annual inspections.

**§ 901.30. Prohibited practices, contracts, gifts and the like.**

(a) A manufacturer or distributor or employee thereof may not directly or indirectly solicit, give or offer to give or receive from another licensee or registrant or an employee thereof gifts, loans of money, premiums, rebates, free merchandise or services of a substantial value. A licensee or registrant or employee thereof, may not directly or indirectly solicit, receive from, or give or offer to give a manufacturer or distributor or his employee gifts, loans of money, premiums, rebates, free merchandise or services of a substantial value.

(b) A manufacturer, distributor or representative thereof may not sell to or solicit from a person an order for a game of chance contingent upon that person or another purchasing or ordering some other game of chance.

(c) A manufacturer, distributor or licensed eligible organization may not fix by express or implied agreement with another manufacturer, distributor, eligible organization or any other person, the prices to be charged to other manufacturers, distributors or eligible organizations in the competitive market place for games of chance or goods, prizes or services sold or rendered in connection with games of chance. Nothing in this subsection is intended to prohibit individual manufacturers, distributors and eligible organizations from negotiating for the price to be paid for goods, prizes or services sold or rendered in connection with games of chance.

**§ 901.31. Examination of records.**

In addition to the examination of records authorized during an inspection of the premises, the Department is authorized to examine the reports, books, accounts and records, and the inventory related to games of chance of a licensed distributor, registered manufacturer, licensed eligible organization or their representatives. Every manufacturer, distributor or eligible organization is directed and required to give to the Department or its authorized representatives the means, facilities and opportunity for the examinations.

**§ 901.32. Ownership of games of chance.**

The physical possessor of a chance in a game is the owner of the chance until a name is imprinted or placed upon it. When a name is placed upon the chance, the person whose name appears on the chance is the owner and is entitled to a prize attributable to it.

**§ 901.34. Disputes.**

If a dispute occurs about whether a chance is a winning chance and the dispute cannot be resolved through normal verification procedures or other appropriate means the licensed eligible organization may retain the

chance and replace it with an equivalent chance in a like game. This is the exclusive remedy of the owner of the chance. Detailed records regarding the dispute, the reasons for the dispute and the chance shall be maintained by the eligible organization for a minimum of 2 years from the date the dispute arose.

**§ 901.35. Termination of games of chance.**

A licensed eligible organization may announce a termination date at which point no further chances may be sold, and a date by which all claims or prizes shall be made. This date may not be less than 30 days after the last date for play of the game being terminated.

**§ 901.36. Federal withholding and reporting requirements.**

A licensed eligible organization is responsible for complying with Internal Revenue Service rules for reporting and withholding on gambling and lottery winnings.

**§ 901.37. State withholding and reporting requirements.**

A licensed eligible organization is responsible for complying with Commonwealth rules for reporting and withholding on gambling and lottery winnings.

**§ 901.38. Commonwealth resident designee.**

A person applying for a certificate or distributor's license under the act or this part is required to designate a person and location within this Commonwealth for purposes of service of process and the person shall agree to submit to the jurisdiction of the courts of the Commonwealth and law enforcement officials of the Commonwealth and its subdivisions.

**§ 901.40. Operating days, nonoperating days and operating weeks.**

(a) An operating day or a nonoperating day may not exceed 24 consecutive hours. An operating day or a nonoperating day may not overlap with any other operating day or nonoperating day.

(b) An operating day may extend from 1 calendar day to another so long as the eligible organization's normal activities or business hours extend from 1 calendar day to another. For example, an eligible organization's operating day may begin at 9 a.m. and end at 3 a.m. the following calendar day (that is, 18 consecutive hours over 2 calendar days).

(c) If an eligible organization operates on a 24 hour-a-day basis, the eligible organization's operating day shall be any consecutive 24-hour period as chosen by the organization. For example, an eligible organization could choose its operating day to be from 9:01 a.m. to 9 a.m. the following calendar day or from 12:01 a.m. to midnight on the same calendar day.

(d) An operating week shall consist of 7 consecutive, reoccurring operating or nonoperating days.

(e) An eligible organization shall choose its operating day and week and report them on its license application.

(f) A licensed eligible organization may change its operating day and week. The eligible organization shall amend its license before the new operating day or week becomes effective.

**ADMINISTRATION**

**§ 901.51. Power and duties.**

The Department has the power and authority granted to it by the Legislature under the act, including the power and authority to do the following:

(1) Review the tax status of an applicant for a certificate or distributor license.

(2) Prescribe the records and books which distributors and manufacturers are required to keep. See §§ 901.421—901.426 and 901.441—901.445 (relating to manufacturer records and reports; and distributor records and reports).

(3) Impose minimum standards and restrictions applicable to games of chance manufactured for sale in this Commonwealth. The standards and restrictions may include specifications for the maximum number of chances available to be sold for a single game or prize and other standards and restrictions the Department deems necessary for the purpose of the act.

(4) Establish procedures by which manufacturers may apply for a certificate and distributors may apply for licensure.

(5) Provide forms for registration of manufacturers and licensure of distributors.

(6) Prescribe procedures for the suspension or revocation of distributor licenses and certificates for violations of the act or this title.

(7) Prescribe the form to be used by the licensing authority to license eligible organizations.

(8) Conduct investigations prior to licensure and registration to ensure compliance with the requirements and prohibitions of the act and this part.

(9) Collect a fee for the issuance of a manufacturer registration certificate or distributor license.

(10) Initiate legal proceedings, in law or equity, before any court or tribunal, for purposes of administering or enforcing the provisions of the act or this part.

(11) Notify the Office of Attorney General of violations of the act and this part and request the Attorney General to initiate legal proceedings, criminal or civil, legal or equitable, to enforce the provisions of the act and this part.

(12) Do other matters necessary or desirable for the efficient operation and administration of games of chance and to carry out the act and this part.

**§ 901.52. Administrative entity.**

The Department will carry out its powers provided in the act or this part through the Bureau of Business Trust Fund Taxes—Miscellaneous Tax Division. The administrative entity may be changed by notice published in the *Pennsylvania Bulletin*.

**Subchapter B. LICENSING AND REGISTRATION  
MANUFACTURER REGISTRATION**

**§ 901.101. Manufacturer registration and game approval required.**

(a) A person shall be registered with the Department and possess a manufacturer's registration certificate to sell or otherwise furnish games of chance to licensed distributors within this Commonwealth.

(b) A registered manufacturer may not sell a game of chance in this Commonwealth to a licensed distributor until the Department has approved it.

(c) If a registered manufacturer modifies an approved game of chance in any substantial way so that the nature or identity of the game is changed, the rules of the game

change or the prizes or payouts change, the game of chance must be considered a new game of chance and submitted for approval.

**§ 901.102. Registration and game approval forms.**

(a) A person seeking a manufacturer registration certificate shall submit to the Department an application form as prescribed by the Department.

(b) A person seeking an approval of a game of chance shall submit the application for approval to the Department with its manufacturer's registration application or during the registration term on a form prescribed by the Department. The information to be provided on the form must include:

- (1) The name of the game.
- (2) The game form number.
- (3) A description of the game and rules for play.
- (4) A picture or illustration of the game and its component pieces.
- (5) The game prize structure, prizes and their value.
- (6) The number of chances and cost per chance.
- (7) The percentage of prizes to be paid in relation to the gross sale proceeds for all chances.

(c) The application forms referenced in subsections (a) and (b) shall be completed in full and will not be considered to be received until completed in full.

**§ 901.103. Manufacturer registration application form contents.**

An application for registration as a manufacturer of games of chance shall contain at a minimum the following information:

- (1) The name of the manufacturer, including a copy of the Fictitious Name Registration Form, Department of State Registry Statement or similar registration form.
- (2) The manufacturer's business, mailing and legal address as well as the address of all locations where the applicant manufactures its games. It does not include the address of each person from whom the manufacturer purchases raw materials, components or subparts used to manufacture its games.
- (3) The names, addresses, telephone numbers and Social Security numbers of officers, directors, owners and partners or other responsible persons. If incorporated, the application must contain the names, addresses, telephone numbers and Social Security numbers of officers and shareholders controlling 10% or more of outstanding stock. If organized as a partnership, the application must contain the names, addresses and telephone numbers of all partners.
- (4) A copy of the constitution and bylaws or the corporate charter for new applications. This information must also accompany renewal application if requested or if amended.
- (5) A complete list of all games of chance to be manufactured for sale in this Commonwealth during the registration term. The list must contain information as prescribed on the manufacturer registration application form.
- (6) The signatures of responsible persons.
- (7) A complete list of manufacturer representatives operating in this Commonwealth, their addresses and telephone numbers.

- (8) Pennsylvania tax information, including:
  - (i) The Pennsylvania Sales Tax number.
  - (ii) The Pennsylvania corporate box number.
  - (iii) The Pennsylvania employer identification number.
  - (iv) The Pennsylvania Unemployment Compensation account number.

- (9) A certified statement that:
  - (i) State tax reports and returns have been filed.
  - (ii) State taxes due and payable have been paid.
  - (iii) State taxes owing are subject to timely administrative or judicial appeal and the required bond or security has been filed.
  - (iv) Delinquent State taxes are subject to an approved deferred payment plan. A copy of the approved deferred payment plan shall be attached to the certified statement.

(10) A certified statement that no officer, director or other responsible person or employee eligible to make sales on behalf of the manufacturer has been convicted of one or more of the following:

- (i) A felony in a state or Federal court within the past 5 years.
- (ii) A violation of the act, the Bingo Law or a gambling related offense under 18 Pa.C.S. (relating to the Crimes Code) or other comparable state or Federal law within 10 years of the date of the application in a state or Federal court.

- (11) The logos and trade names used by the manufacturer.
- (12) Other documents as identified in the application materials.

**§ 901.103a. Change of application information.**

A manufacturer shall report any changes to the information supplied in its application to the Department within 15 days of the change.

**§ 901.104. Waiver of confidentiality.**

By filing an application for the grant of a manufacturer registration certificate, the applicant waives confidentiality with respect to Commonwealth tax information in the possession of the Department, the Office of Attorney General or the Department of Labor and Industry regarding the applicant, regardless of the source of that information, and consents to the provision of that information to the Department by the Office of Attorney General or the Department of Labor and Industry.

**§ 901.106. Registration term.**

A registration term begins on April 1 and ends on March 31 of the succeeding year. A certificate issued during a registration term is only valid from the date of issuance to the end of the registration term.

**§ 901.107. Annual applications.**

A registered manufacturer shall file an application for a certificate at least 60 days prior to the expiration date of its existing certificate to ensure that the Department will act on its application prior to the expiration of its current certificate.

**§ 901.108. Registration number.**

The Department will assign a registration number and issue a certificate to each manufacturer that it approves for registration. The registered manufacturer shall place

the registration number on all documents used in any transactions under the act or this part.

**§ 901.109. Certificate.**

The certificate issued must be maintained on the manufacturer's premises and available for inspection upon request.

**§ 901.110. Duplicate certificate.**

If a certificate is defaced, destroyed or lost, the Department may issue a duplicate to the holder of the certificate upon submission of a duplicate application form. A \$100 fee will be charged for the duplicate certificate.

**§ 901.111. Transfer.**

A manufacturer is prohibited from transferring or assigning its certificate.

**§ 901.112. (Reserved).**

**§ 901.113. Representatives of manufacturer.**

A representative of a manufacturer acts as an agent of the manufacturer in activities conducted under the manufacturer's registration certificate.

**§ 901.114. Dissolutions, terminations, mergers and bankruptcies.**

(a) A manufacturer shall notify the Department in writing within 10 days of one or more of the following actions on the part of the manufacturer:

(1) The filing with the Department of State of a certificate of election to dissolve, or the filing of a similar document in another jurisdiction.

(2) The filing of a petition in bankruptcy or receivership by the manufacturer.

(3) The merging or consolidating with another entity.

(4) The termination of its business activities by a process, legal or equitable, voluntary or involuntary, formal or informal, within or outside this Commonwealth.

(b) A notice of the decision to dissolve is required even if filing is not required.

**§ 901.117. Denial notice of violation and revocation.**

(a) *Manufacturer registration certificate.* The Department may deny an application for a certificate, issue a notice of violation or revoke a certificate if the manufacturer or a person required to be identified in the application form commits one or more of the following acts:

(1) Has included false information on the application.

(2) Has failed to comply with or engaged in an activity prohibited by the act or this part.

(3) Has changed its address without notification as required in this part.

(4) Has been convicted of, forfeited bond upon a charge of or pleaded guilty or nolo contendere to one of the following:

(i) Forgery.

(ii) Larceny.

(iii) Extortion.

(iv) Conspiracy to defraud.

(v) Willful failure to make required payment or reports to a governmental agency.

(vi) A crime, whether a felony or a misdemeanor, involving a gambling activity or a felony involving moral turpitude.

(vii) Other similar offenses.

(5) Has refused to permit an inspection of its records or premises under one of the following:

(i) Section 901.28 or § 901.31 (relating to inspection of premises; and examination of records).

(ii) A search warrant.

(iii) A court order.

(6) Has been convicted of a felony in a State, or Federal court within the past 5 years.

(7) Has been convicted in a municipal, state or Federal court of a violation of the act, the Bingo Law or of a gambling-related offense under 18 Pa.C.S. (relating to the Crimes Code) or another comparable state or Federal law within 10 years of the date of application.

(8) Has made a misrepresentation or fails to disclose a material fact.

(9) Sells or offers for sale in this Commonwealth a game of chance that has not been approved by the Department as provided for in this part.

(b) *Game of chance approval.* The Department may deny an application for a game of chance approval. The Department may issue a notice of violation for or revoke an approved game of chance if the game of chance fails to meet the requirements of the act or this part. The Department may revoke its approval of a game if the Department determines that the approval was issued in error.

(c) *Notice of violation.*

(1) A notice of violation is issued to notify a manufacturer of a violation of the act or this part and to provide the manufacturer with an opportunity to remedy the violation. A manufacturer retains the privileges conferred on it by its certificate or game approval during the notice period and may continue to sell games of chance in this Commonwealth.

(2) The time period that the Department may grant to a manufacturer to remedy a violation may not exceed 30 days, unless the manufacturer requests an extension, in writing, and the Department approves the extension. An extension may not exceed 30 additional days.

(3) The Department will provide the manufacturer a notice of compliance within 5 days after the manufacturer demonstrates to the satisfaction of the Department that the violation has been remedied.

(4) If the Department determines that the manufacturer has not remedied the violation identified in the notice by the end of the notice or extension period, the Department will revoke the certificate or game approval as applicable.

(5) There is no right to appeal a notice of violation or a denial of an extension.

(d) *Notice.*

(1) The Department will notify a manufacturer in writing of a denial, violation or revocation. The notice will provide:

(i) The issue date of the notice.

(ii) The action taken by the Department.

(iii) The reason for the action.

(iv) The manufacturer's appeal rights.

(2) The Department will serve the notice by certified or first-class mail.

(3) The Department will mail the notice to the manufacturer's Commonwealth resident designee and the manufacturer's primary business address listed on the manufacturer's application.

**§ 901.117a. Registration following revocation.**

Unless otherwise provided by the act or this part:

(1) A manufacturer whose certificate is revoked is ineligible to apply for and receive another certificate for the remaining registration term or 6 months, whichever is longer.

(2) For a second revocation, the manufacturer is ineligible to apply for and receive another certificate for the remaining registration term as well as the following registration term.

(3) For a third and subsequent revocation, the manufacturer is ineligible to apply for and receive another certificate for 30 months.

**§ 901.119. Raffle, daily drawing and weekly drawing ticket manufacturers.**

This section and §§ 901.101—901.118 do not apply to the manufacturers who only produce and sell raffle, daily drawing and weekly drawing tickets.

**DISTRIBUTOR LICENSING**

**§ 901.131. Distributor license requirement.**

A person shall be licensed by the Department and possess a license to sell, offer for sale or otherwise furnish games of chance to licensed eligible organizations in this Commonwealth.

**§ 901.132. License application form.**

For a distributor to obtain a license to sell games of chance in this Commonwealth, the distributor shall submit a license application to the Department in the form prescribed by the Department. The application form shall be completed in full and will not be considered to be received until it has been completed in full.

**§ 901.133. Distributor license application form contents.**

The application form must include the following:

(1) The name of the distributor, including a copy of the Fictitious Name Registration, Department of State Registry Statement or similar registry statement.

(2) The address of the distributor, including the business, mailing and legal address.

(3) The names, addresses, telephone numbers and Social Security numbers of officers, directors, owners and partners or other responsible persons. If incorporated, the application shall contain the names, addresses and telephone numbers of officers and shareholders controlling 10% or more of outstanding stock. If organized as a partnership, the application must contain the names, addresses and telephone numbers of all partners.

(4) A copy of the constitution and bylaws or corporate charter only for new applications. This information must also accompany renewals if requested or if changed or amended.

(5) A list of all types of games of chance to be distributed.

(6) A list of manufacturers with whom distributors anticipate doing business.

(7) The signature of responsible persons.

(8) A complete list of distributor representatives and their addresses and telephone numbers.

(9) Pennsylvania tax information, including:

(i) Pennsylvania Sales Tax number.

(ii) Pennsylvania Corporate box number.

(iii) Pennsylvania Employer identification number.

(iv) Pennsylvania Unemployment Compensation account number.

(v) Pennsylvania Liquor License Number, if applicable.

(10) A certified statement that:

(i) State tax reports and returns have been filed.

(ii) State taxes due and payable have been paid.

(iii) State taxes owing are subject to timely administrative or judicial appeal.

(iv) Delinquent State taxes are subject to an approved deferred payment plan. A copy of the approved deferred payment plan shall be attached to the certified statement.

(11) A certified statement that no officer, director or other responsible person or employee eligible to make sales on behalf of the distributor has been convicted of one or more of the following:

(i) A felony in a state or Federal court within the past 5 years.

(ii) A violation of the Bingo Law or of the act or a gambling related offense under 18 Pa.C.S. (relating to the Crimes Code) or other comparable state or Federal law within 10 years of the date of application in a state or Federal court.

(12) The logo used by the distributor.

(13) Other documents as identified in the application materials.

**§ 901.133a. Change of application information.**

A distributor shall report any changes to the information supplied in its application to the Department within 15 days of the change.

**§ 901.136. License term.**

A license term begins on June 1 and ends on May 31 of the succeeding year. A license issued during a license term is only valid from the date of issuance to the end of the license term.

**§ 901.137. Annual application.**

A licensed distributor shall file an application for a license at least 60 days prior to the expiration date of its existing license to ensure that the Department will act on its application prior to the expiration of its existing license.

**§ 901.138. License number.**

The Department will assign a license number and issue a license to each distributor it approves for licensure. A licensed distributor shall place its business name and license number on all documents used in any transaction under this part.

**§ 901.139. License.**

The license shall be conspicuously displayed at all times at the place of business of the person licensed.

**§ 901.140. Duplicate license.**

Whenever a license is defaced, destroyed or lost, the Department may issue a duplicate to the holder of the



license upon submission of a duplicate License Application Form. A \$100 fee will be charged for the duplicate license.

**§ 901.141. Transfer.**

A licensed distributor is prohibited from transferring or assigning its license.

**§ 901.142. Distributor's representative.**

A distributor's representative acts as an agent of the licensee in activities conducted under the distributor's license.

**§ 901.143. Restrictions on distributorship interest.**

(a) A licensed eligible organization may not be a distributor.

(b) A person who is an officer, director, proprietor, consultant, employee or owner of a distributorship may not have a pecuniary interest in the operation of games of chance.

(c) A distributor or person who has a financial interest in a distributorship may not be a lessor of premises, directly or indirectly, to a licensed eligible organization.

**§ 901.144. Restrictions of distributor employees.**

(a) An employee of a distributorship may not be an employee, consultant or volunteer of a licensed eligible organization unless the employee has first made a full written disclosure of the employee's distributorship employment to the eligible organization.

(b) An employee of a distributorship may not be a law enforcement official.

(c) An employee of a distributorship may not play games of chance at the site of a licensed eligible organization if that eligible organization is a customer of the distributorship.

(d) A Department employee assigned to the bureau responsible for administering the act or this part may not have an interest in a distributor licensed under the act or this part.

**§ 901.146. Sales promotion.**

A distributor may not use as a sales promotion a statement, demonstration or implication that a certain portion of a deal contains more winners than other portions of the deal or that a game of chance may be played by a licensed eligible organization in a particular manner that would give the organization an advantage in selling more chances before having to pay out winners.

**§ 901.147. Fixed prices.**

A distributor may not enter into an express or implied agreement with another distributor to fix the price at which games of chance may be sold, or for which services in connection therewith may be rendered. The price of these items in the competitive marketplace must be established by each distributor for the games of chance and services offered by each and may not be directly or indirectly established in concert with one another.

**§ 901.148. Dissolutions, terminations, mergers and bankruptcies.**

(a) A distributor shall notify the Department, in writing, within 10 days of one or more of the following actions on the part of the distributor:

(1) The filing with the Department of State of a certificate of election to dissolve, or the filing of a similar document in another jurisdiction.

(2) The filing of a petition in bankruptcy or receivership by the distributor.

(3) The merging or consolidating with another entity.

(4) The termination of its business activities by a process, legal or equitable, voluntary or involuntary, formal or informal, in or out of this Commonwealth.

(b) A notice of the decision to dissolve is required if filing is not required.

**§ 901.149. Change of address.**

A distributor shall notify the Department, in writing, 10 days prior to a change of address.

**§ 901.150. Changes in ownership or personnel.**

The distributor shall make a written report to the Department of changes of responsible persons engaged in the business of the distributor. This report must also include a change in the management, ownership, directorship or equity ownership of 10% or more, or a change in the manufacturer's representatives. The report must be filed within 15 days of the addition or deletion.

**§ 901.151. Denial, notice of violation and revocation of licenses.**

(a) *Distributor license.* The Department may deny a license application, issue a notice of violation or revoke a license if the distributor or a person required to be identified in the application form commits one of the following acts:

(1) Has included false information on the application.

(2) Has failed to comply with or engaged in an activity prohibited by the act or this part.

(3) Has changed its address without notification as required in this part.

(4) Has been convicted of, forfeited bond upon a charge of or plead guilty or nolo contendere to one of the following:

(i) Forgery.

(ii) Larceny.

(iii) Extortion.

(iv) Conspiracy to defraud.

(v) Willful failure to make required payments or reports to a governmental agency.

(vi) A crime, whether a felony or a misdemeanor, involving gambling activity or a felony involving moral turpitude.

(vii) Other similar offenses.

(5) Has refused to permit an inspection of its records or premises under one of the following:

(i) Section 901.28 or 901.31 (relating to inspection of premises; and examination of records).

(ii) A search warrant.

(iii) A court order.

(6) Has been convicted of a felony in a state or Federal court within the past 5 years.

(7) Has been convicted in a municipal, State or Federal court of a violation of the act, the Bingo Law, a gambling-related offense under 18 Pa.C.S. (relating to the Crimes Code) or another comparable state or Federal law within 10 years of the date of application.

(8) Has made a misrepresentation or failed to disclose a material fact.

(b) *Notice of violation.*

(1) A notice of violation is issued to notify a distributor of a violation of the act or this part and to provide the distributor with an opportunity to remedy the violation. A distributor retains the privileges conferred on it by its license during the notice period and may continue to sell games of chance in this Commonwealth.

(2) The time period that the Department may grant to a distributor to remedy a violation may not exceed 30 days, unless the distributor requests an extension, in writing, and the Department approves the extension. An extension may not exceed 30 additional days.

(3) The Department will provide the distributor a notice of compliance within 5 days after the distributor demonstrates to the satisfaction of the Department that the violation has been remedied.

(4) If the Department determines that the distributor has not remedied the violation identified in the notice by the end of the notice or extension period, the Department will revoke the license.

(5) There is no right to appeal a notice of violation or a denial of an extension.

(c) *Notice.*

(1) The Department will notify a manufacturer in writing of a denial, violation or revocation. The notice will provide:

- (i) The issue date of the notice.
- (ii) The action taken by the Department.
- (iii) The reason for the action.
- (iv) The distributor's appeal rights.

(2) The Department will serve the notice by certified or first-class mail.

(3) The Department will mail the notice to the distributor's Commonwealth resident designee and the distributor's primary business address listed on the distributor's application.

**§ 901.151a. Licensing following revocation.**

Unless otherwise provided by the act or this part:

(1) A distributor whose license is revoked is ineligible to apply for and receive another license for the remaining license term or 6 months, whichever is longer.

(2) For a second revocation, the distributor is ineligible to apply for and receive another license for the remaining license term as well as the following license term.

(3) For a third and subsequent revocation, the distributor is ineligible to apply for and receive another license for 30 months.

**§ 901.153. Raffle, daily drawing and weekly drawing ticket distributors.**

This section and §§ 901.131—901.152 do not apply to distributors who only sell raffle, daily drawing and weekly drawing tickets.

**BOARD PROCEDURES**

**§ 901.161. Jurisdiction and purpose.**

The Board will receive and review petitions challenging the Department's decisions to deny an application for a manufacturer registration certificate or game of chance approval or a distributor license. The Board will also receive and review petitions from manufacturers or distributors challenging the Department's revocation of a

manufacturer registration certificate, game of chance approval or a distributor license. The Board will provide petitioners with the opportunity for a hearing and will make recommendations to the Secretary regarding petitions.

**§ 901.165. Board practice and procedure.**

(a) *General.* The provisions of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the administrative agency law) do not apply to practice and procedure before the Board to the extent that those provisions are inconsistent with §§ 901.161—901.164, this section and §§ 901.166—901.168 (relating to Board recommendation; decision and order; and stay of appeal).

(b) *Representation.*

(1) A petitioner is not required to be represented before the Board by an attorney. An individual or a partner in a partnership, corporation or association may be represented by a bona fide officer thereof or another person upon a showing of adequate authorization. A petitioner's representative shall be authorized in writing to represent the petitioner. A letter signed by the petitioner or a listing as a representative on the face of the petition signed by the petitioner will be accepted as authorization for representation. An authorization continues until the Board is notified in writing by the petitioner that the authorization is rescinded. A party may be represented by a member in good standing of the bar of this Commonwealth.

(2) Only an attorney-at-law representing a petitioner, or the petitioner acting without representation before the Board, is permitted to raise or argue a legal question at a hearing before the Board.

(3) Notices and other written communications to the petitioner will be given to the petitioner's authorized representative, and will have the same force and effect as if given to the petitioner directly. Action before the Board taken by the petitioner's authorized representative will have the same force and effect as if taken by the petitioner.

(c) *Hearings.*

(1) *Waiver.* The petitioner has the right to a hearing or to have the case decided upon the petition and record. A hearing shall be requested in writing. If a hearing is not requested, it is considered waived.

(2) *Notices of hearing.* When the petitioner requests a hearing in writing, reasonable notice will be given to the petitioner in writing specifying the date, time and place of the hearing.

(3) *Continuances.* The Board may grant a reasonable request for continuance of a scheduled hearing. The request shall be made or confirmed in writing, state the reasons for the continuance and be received at least 5 days prior to the scheduled hearing. The Board may grant a request that is not in conformity with this paragraph under extraordinary circumstances. The Board will notify the petitioner of its decision on the requested continuance.

(4) *Presiding officer.* The Deputy Secretary or a designee shall conduct the hearings.

(5) *Transcripts.* Written transcripts of hearings will not be prepared by the Board unless specifically requested in writing. The cost of the transcript is \$1.50 per page. A recording of the hearing will be made.

(6) *Contemptuous conduct.* Contemptuous conduct is grounds for exclusion from the hearing.

(d) *Authority of presiding officer.* The presiding officer has authority to:

(1) Regulate the conduct of hearings, including scheduling, recessing, reconvening and adjourning, and to do acts and take measures necessary or proper for the efficient conduct of hearings.

(2) Administer oaths and affirmation.

(3) Receive evidence.

(4) Take or cause depositions to be taken.

(5) Hold appropriate conferences before or during hearings.

(6) Take other action necessary or appropriate to the discharge of the duties vested in the officer, consistent with statutory authority, regulations and Board policy.

(7) Participate in making decisions.

(8) Rule upon offers of proof and receive relevant evidence.

(9) Dispose of procedural requests or similar matters.

(e) *Service.* Notices and decisions issued under §§ 901.161—901.164, this section and §§ 901.166—901.168 will be sent by first class mail, postage prepaid.

(f) *Consolidation.* Two or more proceedings may be consolidated or severed by the Board at its discretion.

(g) *Bond.* A registrant or licensee whose license or registration has been revoked due to Commonwealth tax liabilities, and who has been notified of the revocation, shall file a bond in an amount of 120% of the tax and interest with the Department for an appeal of the revocation to stay the revocation.

(h) *Evidence and subpoenas.* The presentation of evidence and the issuance of subpoenas relating to hearings before the Board are governed by 1 Pa. Code Chapter 35 Subchapter C (relating to evidence and witnesses).

(i) *Burden of proof.* The petitioner has the burden of proof.

#### § 901.168. Stay of appeal.

(a) Actions to revoke a registration, license or game approval will be stayed pending the decision of the Secretary when a petition has been filed with the Board.

(b) During the pendency of the appeal, the certificate, game approval or license will be suspended. (See § 901.23a (relating to effect of denial, suspension, revocation, expiration of a certificate, license or game of chance).)

### ELIGIBLE ORGANIZATION LICENSING

§ 901.181. (Reserved).

§ 901.182. (Reserved).

§ 901.183. (Reserved).

§ 901.184. (Reserved).

§ 901.185. (Reserved).

§ 901.186. (Reserved).

§ 901.187. (Reserved).

§ 901.188. (Reserved).

§ 901.189. (Reserved).

§ 901.190. (Reserved).

#### § 901.191. License application form.

(a) The Department will proscribe the license application form for eligible organizations. Licensing authorities may obtain the form from the Department.

(b) The form is available to eligible organizations through the licensing authorities.

(c) The license application form must contain, at a minimum, the following information:

(1) The name of the organization.

(2) The type of organization.

(3) The address of the organization.

(4) Incorporation information.

(5) The name of the municipality where the applicant will maintain its licensed premises.

(6) The eligible organization's licensed premises.

(7) The eligible organization's operating day and week.

(8) The names, addresses and telephone numbers of the officers of the organization.

(9) Partnership information.

(10) A list of shareholders owning 10% or more of outstanding stock.

(11) The names and addresses of persons who will be responsible for the operation of games of chance, including eligible organization employees, bar personnel, auxiliary group members and other persons who will obtain the games of chance and coordinate their use.

(12) A statement under oath in the form of an affidavit, affirmed by the executive officer or secretary of the eligible organization, stating the following:

(i) A person 17 years of age or younger will not be permitted by the eligible organization to operate or play games of chance.

(ii) The facility in which games of chance are to be played has adequate means of ingress and egress and adequate sanitary facilities available in the area and meets Department of Health and other local or Federal sanitary requirements.

(iii) The eligible organization is the owner of the premises upon which the games of chance are played or, if it is not, the eligible organization is not leasing the premises from the owner thereof under an oral agreement, nor is it leasing the premises from the owner thereof under a written agreement at a rental which is determined by the amount of receipts realized from the playing of games of chance or by the number of people attending, except that an eligible organization may lease a location or premises for a banquet where a per head charge is applied in connection with the serving of a meal.

(13) A copy of a corporate applicant articles of incorporation and bylaws; or, if not a corporation, a copy of bylaws and other documents which set out the organizational structure and purpose.

(14) A copy of a nonprofit charitable applicant's Internal Revenue Service tax exemption letter if one has been obtained and a copy of other documents indicating the eligible organization is a nonprofit charitable organization.

(15) The details and copies of the lease, rental or other arrangements between the applicant and the owner of premises upon which the games of chance will be conducted, if the premises are not owned by the eligible organization.

(16) The names, addresses, dates of birth and the Social Security numbers of each paid employee, auxiliary

group member or agent who will be involved with the activities for which the license is sought.

(17) Other documents as identified in the application materials.

(18) The type of license applied for and a list of all types of games of chance to be operated by the eligible organization.

(19) A list of distributors of games of chance with whom the eligible organization does business.

(20) A list of the eligible organization's auxiliary groups that will operate games of chance under the eligible organization's license.

**§ 901.192. (Reserved).**

**§ 901.193. (Reserved).**

**§ 901.194. (Reserved).**

**§ 901.195. Types of licenses.**

Two types of licenses are available. An eligible organization may only hold one type of license at a time. The types of licenses are as follows:

(1) *Games of chance license.* A games of chance license authorizes the licensee to conduct games of chance as prescribed by the act and this part during the eligible organization's licensing term. A licensee is eligible to apply for special raffle permits.

(2) *Limited occasion license.* A limited occasion license authorizes the licensee to conduct games of chance on a limited basis as provided in § 901.196 (relating to limited occasion license requirements, limits and restrictions).

**§ 901.196. Limited occasion license requirements, limits and restrictions.**

(a) Only organizations that do not own or lease a premises or do not have a specific location at which they conduct their normal business are eligible for a limited occasion license.

(b) Limited occasion licensees are not eligible for the following:

- (1) Special raffle permits.
- (2) A games of chance license.

(c) Limited occasion licensees may conduct games of chance on no more than three occasions over a period of no more than 7 days during the license term.

(d) No more than two raffles may be conducted under a limited occasion license.

(e) The fee for a limited occasion license is \$10.

(f) The licensee shall provide 10 days prior written notice of its intent to conduct games of chance under its license to the licensing authority that issued its license.

**§ 901.197. Change of application information.**

An eligible organization shall report any changes to the information supplied in its license application to the licensing authority within 15 days of the change.

**§ 901.211. (Reserved).**

**§ 901.212. (Reserved).**

**§ 901.213. (Reserved).**

**§ 901.214. (Reserved).**

**§ 901.215. (Reserved).**

**§ 901.216. (Reserved).**

**§ 901.217. (Reserved).**

**§ 901.218. (Reserved).**

**§ 901.219. (Reserved).**

**Subchapter C. LOCAL OPTION**

**LOCAL OPTION REQUIREMENT AND LOCAL OPTION REPORTING**

**§ 901.307. Withdrawal of approval.**

The referendum procedures contained in §§ 901.301—901.306, this section, §§ 901.308 and 901.309 shall also be available to withdraw the approval of the issuance of eligible organization licenses within the municipality which was granted through a prior referendum.

**§ 901.308. Reporting.**

A county board of elections shall certify to the Department the question and the results no later than 40 days following the primary election on which a referendum question relating to games of chance appears on the ballot.

**§ 901.309. Public information.**

Information supplied with regard to the approval or disapproval of games of chance by local referendum shall be available from the county board of elections and the licensing authority.

**Subchapter D. RECORDKEEPING**

**COUNTY RECORDS AND REPORTS**

**§ 901.401. (Reserved).**

**§ 901.402. (Reserved).**

**§ 901.403. (Reserved).**

**§ 901.404. (Reserved).**

**§ 901.405. List of licensed eligible organizations.**

The licensing authority will keep a list of licensees and send the list to the Department biannually on or before January 15 and July 15 of each year. Upon request, the licensing authority will provide the Department with a copy of an eligible organization's license. The list shall identify the eligible organization, its full address, its license number, type of license and any special raffle permit serial number.

**§ 901.406. (Reserved).**

**§ 901.407. List of municipalities.**

(a) The licensing authority will keep and maintain an up-to-date list of those municipalities within the licensing authority's county that permit games of chance.

(b) The licensing authority will give a copy of the list to every eligible organization at the time of licensure.

(c) The licensing authority will make the list available to licensed eligible organizations who provide notice to the licensing authority of raffle sales within the licensing authority's county.

(d) Any time the list is updated, the licensing authority will submit a copy of the list to the Department within 30 days of the update.

#### MANUFACTURING RECORDS AND REPORTS

##### § 901.421. Distributor license copy.

A manufacturer shall maintain a record of the games of chance license number of each distributor to which it sells or otherwise furnishes games of chance.

##### § 901.423. Annual records.

A registered manufacturer shall keep and maintain annual records of the activities related to games of chance for at least 5 years.

##### § 901.425. Records.

A record must include the following:

(1) *Sales invoices.* A manufacturer shall record every sale, return or other type of transfer of games of chance by completing a sales invoice or credit memo. An invoice must be prenumbered at the time of purchase. The numbering must be consecutive, using at least four digits. Manufacturers may use a computer generated numbering system if the same system is used for all sales and specific numbers cannot be input by use of a manual terminal or other device. The invoice must contain the following information:

- (i) The date of the sale.
- (ii) The date of the delivery.
- (iii) The customer's business address.

(iv) The description of each item sold, including serial numbers for pull-tabs and form number. Each game listed on the invoice that the Department has approved for sale in this Commonwealth must be clearly noted. The games may be listed in separate attachment identifying the form numbers and serial numbers.

(v) The quantity and sale price of each individual item, including individual items of merchandise to be used as prizes on punchboards and pull-tabs.

(vi) The gross amount of each sale to each customer, including discount terms and the total dollar amount of a discount.

- (vii) The total amount of the invoice.
- (viii) The distributor license number.

(2) *Other records.* Other records and reports as required by this part.

(3) *Serial numbers not required.* A manufacturer is not required to record the serial numbers of punchboards on the sales invoice.

#### DISTRIBUTOR RECORDS AND REPORTS

##### § 901.441. License of purchaser.

A distributor shall keep a copy of the valid games of chance license of each eligible organization to which it sells or otherwise furnishes games of chance.

##### § 901.443. Annual records.

A licensed distributor shall keep and maintain annual records of its activities related to games of chance for at least 5 years.

##### § 901.445. Records.

A record must include the following:

(1) *Sales invoices.* A distributor shall record every sale, return or other type of transfer of games of chance by

completing a standard sales invoice or credit memo. An invoice must be prenumbered at the time of purchase. The numbering must be consecutive using at least four digits. The invoice must contain the following information:

- (i) The date of the sale.
- (ii) The date of the delivery.
- (iii) The name, address and license number of the licensed eligible organization.

(iv) A full description of each item sold, including serial numbers for punchboards and pull-tabs and form numbers. The games may be listed as a separate attachment identifying the form numbers and serial numbers.

(v) The quantity and sales price of each individual item, including individual items of merchandise to be used as prizes on punchboards and pull-tabs.

(vi) The gross amount of each sale to each licensed eligible organization, including all discount terms and the total dollar amount of any discount.

- (vii) The total amount of the invoice.
- (viii) The ideal prizes per game.

(2) *Bank reconciliation.* A bank reconciliation shall be performed on a monthly basis.

(3) *List of games sold.* A list of games sold by form number and serial number and the license number of the purchaser. These records must include enough detail to allow an audit of sold, unsold and damaged games.

(4) *Other records.* Other records and reports shall be maintained as required by this part.

#### LICENSED ELIGIBLE ORGANIZATION RECORDS

##### § 901.461. Annual records.

An eligible organization licensed to conduct games of chance shall keep and maintain annual records of the activities related to games of chance with separate totals of activity under the license for each operating week. Annual records shall be maintained for 2 years.

##### § 901.462. General records required.

A record must include the following:

(1) The gross receipts from the conduct of games of chance.

(2) The full details of the expenses related to the conduct of games of chance.

(3) The total cost of the prizes paid out for games of chance.

(4) The details as to how the proceeds from games of chance were used or disbursed by the eligible organization.

##### § 901.464. Punchboard and pull-tab records.

Detailed annual records for the operation of punchboards and pull-tabs, must include the following:

(1) The name of the punchboard or pull-tab deal.

(2) The manufacturer's serial number on the punchboard or pull-tab deal.

(3) The date it was placed in play.

(4) The date it was removed from play.

(5) The total number of plays in each deal or punchboard.

(6) The cost per play.

(7) The cost to the eligible organization of the prizes paid, including cash and merchandise.

(8) The cash value of all prizes.

(9) A list of winners' names and addresses for prizes in excess of \$100.

**§ 901.464a. Daily and weekly drawing records.**

A licensed eligible organization shall maintain the following records and information with regard to each daily or weekly drawing:

(1) The type of drawing (daily or weekly).

(2) The operating day or operating week as applicable during which chances were sold and the date of the drawing.

(3) The list of entrants in the drawing.

(4) Each entrant's assigned or chosen number.

(5) The cost per chance.

(6) The proceeds from the sale of chances and the prize payout percentage.

(7) The winner's name.

(8) The prize paid to the winner.

(9) The winner's name and address for a prize over \$100.

(10) The winner's signed acknowledgment for receipt of the prize.

(11) A notation if the drawing is a carryover, and the amount of the jackpot being carried over to the next drawing.

**§ 901.465. Cash over and short.**

Cash over and short must be determined by:

(1) Subtracting actual cash from net receipts for games of chance paying cash prizes.

(2) Subtracting actual cash from gross receipts for games of chance which award merchandise prizes.

**§ 901.466. Prize records.**

A separate annual record shall be kept which may be easily cross-referenced to the other required records and which identifies the following:

(1) The number and amount of individual prizes awarded in excess of \$100.

(2) The total amount of prizes awarded per operating week.

(3) The total amount of raffle prizes awarded each month.

**Subchapter E. PROHIBITED ACTIVITIES/PENALTIES**

**PROHIBITED ACTIVITIES**

**§ 901.501. Advertising.**

(a) *General.* An eligible organization or other person may not advertise the prizes or their dollar value to be awarded in games of chance.

(b) *Exceptions.*

(1) Raffle tickets may identify the raffle prizes.

(2) An eligible organization may advertise prizes and values thereof in periodic publications that are limited in their circulation to members of the eligible organization.

**§ 901.502. Persons.**

(a) A person having a pecuniary interest in a distributor or manufacturer or operator of games of chance may not have been:

(1) Convicted within 10 years of a violation of the Bingo Law, or of the act or of a gambling-related offense under 18 Pa.C.S. (relating to the Crimes Code) or other comparable state or Federal law.

(2) Convicted of a felony in a state or Federal court within the last 5 years.

(b) A person 17 years of age or younger may not be permitted to operate or play games of chance.

(c) A licensed eligible organization may not permit a person who has been convicted of a felony in a Federal or state court within the past 5 years or has been convicted in a Federal or State court of a violation of the Bingo Law or the act within the past 10 years to manage, set up, supervise or participate in the operation of games of chance.

**§ 901.503. Compensation.**

A licensed eligible organization may not pay compensation to a person for conducting games of chance.

**§ 901.504. Persons who may conduct games.**

Only licensed eligible organizations or auxiliary group managers, officers, directors, bar personnel or bona fide members of the licensed eligible organization may conduct games of chance.

**§ 901.505. Promotional use of games of chance.**

Games of chance may not be used as a part of promotional or advertising methods.

**§ 901.506. Credit play.**

(a) Playing of games of chance shall be on a cash basis.

(b) Cash includes checks and money orders but does not include the use of a type of credit or debit card.

(c) The consideration to play a game of chance shall be collected in full, by cash, check or money order, in advance of a play.

(d) Credit play may not be extended to a player.

(e) A licensed eligible organization may not permit the purchase of tickets by means of a deferred payment plan.

(f) Licensed eligible organizations may establish their own policies concerning acceptance of checks. A licensed eligible organization is not required to accept a check.

(g) A licensed eligible organization, manufacturer or distributor may not grant a non de minimis loan or gift to a player, a licensed eligible organization, distributor or manufacturer.

(h) Postdated or altered checks may not be accepted.

(i) On the specific date on which the check was written, a licensed eligible organization may allow a player to buy back a check with cash or return a player's check to the player as part of a prize payout. Licensed eligible organizations may not unnecessarily delay the bank deposit of a check to accommodate either of these activities.

(j) A licensed eligible organization may not lend or provide the use of gambling funds to a person as a loan.

**§ 901.507. Prizes in excess of \$500.**

A licensed eligible organization may not award an individual prize that exceeds \$500 except under a special

raffle permit, a daily drawing as provided in § 901.702(e)(1) (relating to prize limits) or a weekly drawing.

**§ 901.508. Prizes in excess of \$5,000.**

A licensed eligible organization may not award a prize that causes the total prizes awarded for an operating week to exceed \$5,000 except under a special raffle permit, a daily drawing as provided in § 901.702(e)(1) or (2) (relating to prize limits) or a weekly drawing as provided in § 901.702(f)(2).

**§ 901.509. Monthly raffle limit.**

A licensed eligible organization may not award a raffle prize that causes the total prizes awarded in raffles to exceed \$5,000 for the month except under a special raffle permit.

**§ 901.510. Use of licensed premises by more than one organization.**

A licensed eligible organization may not permit its premises to be used for games of chance by another licensed eligible organization at the same time that it is conducting games of chance on the premises. When a licensed eligible organization permits another licensed eligible organization to use its premises for purposes of games of chance, it shall cease the operation of its own games of chance during the period that the other licensed eligible organization is conducting its games on the premises.

**§ 901.511. Other activities.**

Other activities that are grounds for revocation, notice of violation, denial or termination of a certificate or license are also prohibited.

**§ 901.512. Oral and written leases.**

(a) An eligible organization may only lease a location or premises for the operation of games of chance under a written agreement.

(b) An eligible organization may not lease a location or premises for the operation of games of chance under a written agreement that provides for a rental price determined by the amount of receipts realized from the playing of games of chance or by the number of people attending, except that an eligible organization may lease a location or premises for a banquet where a per head charge is applied in connection with the serving of a meal.

**§ 901.513. Gambling facilities prohibited.**

(a) A person, corporation, association, partnership or other business entity may not offer for rent or offer for use a building or facility to be used exclusively for conducting of games of chance.

(b) A licensed eligible organization may not lease under any terms a facility or building that is used exclusively for conducting of games of chance.

**PENALTIES**

**§ 901.531. Eligible organizations.**

An eligible organization violating the act is guilty of a summary offense, and upon conviction will be sentenced to pay a fine not exceeding \$1,000 and shall, for a first offense forfeit its license to conduct games of chance for the remainder of the license term or 6 months, whichever is longer; for a second offense, forfeit its license for the remainder of the license term and be ineligible to be licensed for the following license term; for a third or subsequent offense, forfeit its license and be ineligible for a license renewal for 30 months thereafter.

**§ 901.532. Individuals.**

A person who conducts, or who assists in the conduct of games of chance in violation of the act is guilty of a summary offense for the first violation, a misdemeanor of the third degree for a second violation and a misdemeanor of the first degree for a third or subsequent violation.

**§ 901.533. Distributors and manufacturers.**

A person who distributes games of chance without a license or in violation of the act or this part and a manufacturer of games of chance who delivers games of chance for sale or distribution in this Commonwealth who fails to obtain a certificate thereof, is guilty of a misdemeanor of the first degree. A license or certificate is not required for the manufacture or distribution of raffle, daily drawing or weekly drawing tickets.

**§ 901.535. Contingent fees.**

A person who distributes, manufactures or operates a game of chance and who requires a payment equal to a percentage of the total winnings of a game for equipment furnished or to play a game commits a misdemeanor of the first degree.

**Subchapter F. MANUFACTURING STANDARDS**

**PULL-TAB MANUFACTURING STANDARDS**

**§ 901.601. Uniform minimum quality standards.**

(a) *Standards.* Pull-tab games manufactured for sale or other distribution in this Commonwealth shall conform to the act, this part and NAGRA's manufacturing standards for pull-tab games, as amended, to the extent consistent with this part. Copies of NAGRA standards are available from the Department.

(b) *Packaging.* Packaging shall also be in conformity with NAGRA criteria. Copies of these criteria are available from the Department.

(c) *Randomization.*

(1) Pull-tabs in a deal must be distributed and mixed among all other pull-tabs in a deal so as to eliminate any pattern in the location of winning and losing pull-tabs in a deal or between deals.

(2) A deal may not be segregated into sub-deals or portions so that a part of a deal may be distinguished or played separately from the rest of the deal.

**§ 901.602. Flares.**

A flare provided by the manufacturer must accompany every deal. However, a licensed eligible organization may alter a flare as provided in § 901.731(b)(2) (relating to punchboard and pull-tab operation).

**§ 901.603. Standards for flares.**

(a) A pull-tab game flare must be made only by the manufacturer. Except as provided by § 901.731(b)(2) (relating to punchboard and pull-tab operation), a flare may not be altered after it leaves the manufacturer's possession and control.

(b) Except as otherwise provided in this part, a flare for a pull-tab game must comply with NAGRA manufacturing standards for pull-tab game flares.

(c) A pull-tab game flare must:

(1) Be placed only upon the face, or on the top, of a dispenser used to dispense the pull-tabs.

(2) Clearly set out each of the prizes available and the number or symbol that wins each prize.

(3) Set out the winning numbers or symbols for prizes of \$5 or more in cash or merchandise with a cash value of \$5 or more.

(d) The flare for any pull-tab game containing hold tickets must provide for a section on the flare, either on the front or back, that contains the hold ticket numbers or symbols and a corresponding space beside each number or symbol upon which the holder of each hold ticket shall sign his name.

(e) A seal card may serve as a pull-tab game flare if it meets all the requirements of a flare.

**PUNCHBOARD MANUFACTURING STANDARDS**

**§ 901.621. Flares.**

A flare provided by the manufacturer must accompany every punchboard. However, a licensed eligible organization may alter a flare as provided in § 901.731(b)(2) (relating to punchboard and pull-tab operation).

**§ 901.622. Standards for construction.**

Punchboards sold for use in this Commonwealth must be in compliance with the following standards:

(1) *General.*

(i) A punchboard must have a face sheet that covers the punchboard receptacles.

(ii) The flare for the punchboard may be manufactured to serve as the face sheet for the punchboard.

(iii) A punchboard, its punches and its flare must be assigned an identical serial number.

(iv) Each punchboard receptacle must contain an identical number of punches.

(2) *Patterns.* The punchboard must be manufactured with special care to eliminate patterns between punchboards, or portions of punchboards, from which the location or approximate location of winning punches may be determined. A manufacturer shall employ at least the following steps to ensure that no pattern exists:

(i) The form or permanent number sheets from which the individual punches shall be cut must be mixed prior to cutting.

(ii) After the punches have been crimped, the punches must be thoroughly mixed prior to insertion in punchboards.

(iii) When filing punchboards, workers may not alter the procedures for filling sets of punchboards.

(iv) No more than eight punchboards from one set of boards may be included in a case of punchboards for shipment to this Commonwealth.

(3) *Serial numbers.* Serial numbers set forth on the form or permanent number sheets shall be nonsequential to ensure that no pattern is created which would permit the tracking of boards through the serial number.

(4) *Guaranteed numbers.* Numbers or symbols designated as winners on the flare shall be guaranteed by the manufacturer as being present in the board. The manufacturer may place a sticker or equivalent on the back of each punchboard setting forth additional numbers or symbols that are guaranteed to be in the board. The additional numbers or symbols on the back of the board may not exceed 5% of the total punches in the board.

(5) *Security.* Punchboards must be sealed so it is impossible to determine the number or symbol of a punch prior to being punched out of the board by a method or device including the use of markings or light.

(6) *Step-up boards.*

(i) Cards, straws or punches that contain the winners in the step-up portion of a punchboard must be completely sealed to prevent premature winner identification. The items must be thoroughly mixed to ensure that no pattern of winners exists.

(ii) Step-up boards that contain winners covered by seals must have at least 25 different face sheets for use on that specific step-up board. Face sheets shall be utilized in a manner to ensure random distribution during the manufacturing process.

**§ 901.627. Standards for flares.**

(a) A punchboard flare must be made only by the manufacturer. Except as provided by § 901.731(b)(2) (relating to punchboard and pull-tab operation), a flare may not be altered after it leaves the manufacturer's possession and control.

(b) A punchboard flare must:

(1) Be placed only upon the face or on the top of a punchboard.

(2) Clearly set out each of the prizes available and the number or symbol that wins each prize.

(3) Set out the winning numbers or symbols for prizes of \$5 or more in cash or merchandise worth \$5 or more at retail so that each prize is won and awarded.

(c) The flare for any punchboard containing hold tickets must provide for a section on the flare, either on the front or back, that contains the hold ticket numbers or symbols and a corresponding space beside each number or symbol upon which the holder of each hold ticket shall sign his name.

(d) A seal card may serve as a punchboard flare if it meets all the requirements of a flare.

**GENERAL MANUFACTURING STANDARDS**

**§ 901.631. Subcontracting and manufacturer responsibility.**

(a) A registered manufacturer may subcontract for the manufacturer or production of the parts, pieces, accessories and other items that make up a completed game of chance.

(b) A subcontractor who only manufactures or produces parts, pieces, accessories and other items used to manufacture a completed game of chance is not required to be registered with the Department.

(c) A registered manufacturer that assembles and markets a completed game of chance is responsible for complying with the provisions and requirements of this part to sell the game of chance for use in this Commonwealth.

**§ 901.632. Predetermination of rules, winning chances and prizes.**

Except as provided in § 901.731(b)(2) (relating to punchboard and pull-tab operation), a manufacturer of a pull-tab game or punchboard shall predetermine the rules, prize structure, prizes, prize values, winning pull-tabs or punches and the corresponding prize for each pull-tab or punch during the manufacturing of the pull-tab game or punchboard. A person may not alter a pull-tab game or punchboard manufactured by a registered manufacturer and offered for sale and use within this Commonwealth.



**§ 901.633. Prohibition against participant control of winning chances or prizes.**

A game of chance may not be manufactured for sale and use in this Commonwealth in which a participant who purchases a chance in the game can control, effect or choose the winning chance or chances or the corresponding prize or prizes.

**Subchapter G. OPERATION OF GAMES**

**ELIGIBLE ORGANIZATION OPERATION OF GAMES**

**§ 901.701. Games of chance permitted.**

(a) A licensed eligible organization may conduct games of chance only for the purpose of raising funds for public interest purposes as defined in the act or this part.

(b) A licensed eligible organization shall use games of chance proceeds exclusively for public interest purposes or for the purchase of games of chance permitted by the act or this part. For purposes of this subsection, the term "games of chance" includes merchandise prizes awarded in a game of chance.

(c) A game of chance may not be conducted in this Commonwealth in which a participant who purchases a chance in the game can control, effect or choose the winning chance or chances or the corresponding prize or prizes.

**§ 901.701a. License required.**

(a) *Eligible organizations.* An eligible organization may not conduct or operate games of chance unless the eligible organization obtains and maintains a valid license. An eligible organization shall be in existence and fulfilling its purposes for 1 year prior to the date of application for a license.

(b) *Auxiliary groups.*

(1) An auxiliary group may conduct or operate games of chance under its parent organization's license. An auxiliary group may not be licensed separately. Any auxiliary group that conducts games of chance must be listed on the parent organization's license application.

(2) An auxiliary group that conducts games of chance under its parent organization's license acts in lieu of the eligible organization and is bound by the restrictions and limitations of the eligible organization and its license under the act and this part. Prizes from games of chance conducted by an auxiliary group must be included in the total prizes paid out by the licensed eligible organization for purposes of determining the licensed eligible organization's adherence to the prize limits under the act and this part.

(3) A licensing authority may not charge an additional licensing fee for an auxiliary group's right to conduct games of chance under its parent eligible organization's license.

**§ 901.701b. Display.**

The licensed eligible organization shall at all times publicly display its license at the site where it conducts games of chance.

**§ 901.701c. Location of games.**

(a) A license will be valid at and authorize the holder to conduct games of chance on the eligible organization's licensed premises as provided in § 901.704 (relating to licensed premises).

(b) A licensed eligible organization may conduct games of chance at a location off its premises when the games of chance are part of a reoccurring, annual carnival, fair, picnic or banquet held or participated in by that eligible organization. The organization shall notify, in writing, the district attorney and licensing authority of the location, date and times of the events.

(c) A license issued by a licensing authority in one county will be valid for purposes of selling raffle tickets in municipalities of another county which have specifically approved games of chance by an affirmative vote in a municipal referendum. A licensed eligible organization that plans to sell raffle tickets in a municipality located in a county other than the county in which it is licensed shall notify that county's district attorney and licensing authority as to the location and the dates that the organization plans to sell raffle tickets.

**§ 901.702. Prize limits.**

(a) *Maximum individual prize limit.* The maximum cash value of a prize that may be awarded for a single chance in a game of chance is \$500.

(b) *Weekly limit.* No more than \$5,000 in cash or merchandise may be awarded as prizes in games of chance conducted by a licensed eligible organization during an operating week.

(c) *Raffle limit.* No more than \$5,000 in cash or merchandise may be awarded as prizes in raffles in a calendar month except under a special raffle permit.

(d) *Special raffle permit.* A licensed eligible organization may conduct a raffle and award a prize valued in excess of \$500 only if it has obtained a special raffle permit. The total cash value of prizes awarded under all special raffle permits during a calendar year may be no more than \$100,000.

(e) *Prize limit exceptions for daily drawings.*

(1) A licensed eligible organization may award a prize in excess of the prize limitations in subsections (a) and (b) if the prize is the result of a carryover of a drawing when the following conditions apply:

(i) The winning number was not held by one of the eligible entrants in the drawing.

(ii) The carryover is not the result of the licensed eligible organization's failure to hold a drawing on an operating day during which chances for a daily drawing were sold.

(iii) The chances for the daily drawing were not sold for an amount in excess of \$1.

(iv) An eligible participant may not be sold more than one chance.

(2) A prize awarded in a daily drawing that is set up to pay out 100% of the gross revenues from the drawing is not included as a prize for purposes of the limitation in subsection (b).

(f) *Prize limit exceptions for weekly drawings.*

(1) The prize limitation in subsection (a) does not apply to weekly drawings. Weekly drawings are subject to the prize limitations in subsection (b).

(2) A prize awarded in a weekly drawing will not be considered a prize for purposes of the limitation in subsection (b) if either:

(i) The prize is the result of a carryover of a drawing when the winning number was not held by one of the eligible entrants in the drawing, and the following conditions apply:

(A) The carryover is not the result of the licensed eligible organization's failure to hold a weekly drawing at the end of the operating week during which chances were sold.

(B) The chances for the weekly drawing were not sold for an amount in excess of \$1.

(ii) The drawing is set up to pay out 100% of the gross revenues from such drawing.

**§ 901.703. Place of conduct.**

A licensed eligible organization shall conduct games of chance only on the licensed eligible organization's licensed premises or at places as otherwise provided by the act and this part. A licensed eligible organization may sell raffle tickets off the licensed premises but only in municipalities that have approved games of chance through a valid referendum.

**§ 901.704. Licensed premises.**

(a) An eligible organization's licensed premises must be the location or premises owned or leased by the organization for use as its normal business or operating site. When the premises consists of more than one building, the organization shall designate which building will be used as the licensed premises for the operation of games of chance. If the organization wishes to conduct games of chance in a different building on its licensed premises, it shall notify, in writing, the district attorney and the licensing authority of the change in building site and the date and times that will be affected at least 10 days prior to conducting games at the different site.

(b) If an eligible organization does not own or lease a location or premises for use as its normal business or operating site, the organization may:

(1) With the written consent of another eligible organization, use another eligible organization's licensed premises for purposes of conducting games of chance so long as such use complies with §§ 901.510 and 901.709 (relating to use of licensed premises by more than one organization; and eligible organizations per premises).

(2) Lease a location or premises on which to conduct games of chance as long as the lease does not violate § 901.513 (relating to gambling facilities).

(3) Make other arrangements to acquire a location or premises, consistent with the act and this part, on which to conduct games of chance.

(c) An eligible organization may not lease a location or premises as a licensed premises under an oral agreement. An eligible organization may lease a location or premises under a written agreement. The rental price may not be based on either the amount of receipts realized from the playing of games of chance or the number of people attending. An eligible organization may lease a facility for a banquet where a per head charge is applied in connection with the serving of a meal.

(d) An eligible organization may not lease a location or premises as a licensed premises from any person who has been convicted of a violation of the act or this part within 10 years of the date of the lessor's conviction.

**§ 901.705. Purchase of games.**

A licensed eligible organization shall purchase games of chance only from a licensed distributor. Raffles, daily drawings and weekly drawings are excluded from this requirement.

**§ 901.706. Persons who may not operate or play games of chance.**

(a) A person 17 years of age or younger may not be permitted to operate or play games of chance.

(b) A licensed eligible organization may not permit a person who has been convicted of a felony in a state or Federal court within the past 5 years or a violation of the Bingo Law or the act in a State or Federal court within the past 10 years to manage, set up, supervise or participate in the operation of games of chance.

**§ 901.707. Compensation.**

A licensed eligible organization may not pay compensation to a person for conducting games of chance.

**§ 901.708. Persons who may conduct games of chance.**

Only licensed eligible organizations or auxiliary group managers, officers, directors, bar personnel or bona fide members of the licensed eligible organization may conduct games of chance.

**§ 901.709. One eligible organization per premises.**

Only one licensed eligible organization may use a licensed premise to conduct games of chance. A licensed eligible organization may allow another licensed eligible organization that does not own or lease a normal business premises to conduct games of chance on its premises. When an eligible organization uses the premises of another eligible organization, each eligible organization shall notify its respective licensing authority and district attorney in writing at least 10 days prior to using the premises.

**§ 901.710. Other standards and requirements.**

A licensed eligible organization may not provide for play or purchase a game of chance that violates the act or this part.

**§ 901.711. (Reserved).**

**§ 901.712. Raffle, daily drawing and weekly drawing game rules and prizes.**

An eligible organization shall establish the rules, prize structure, prizes, and prize values in a raffle, daily drawing or weekly drawing prior to conducting the raffle, daily drawing or weekly drawing.

**PUNCHBOARD AND PULL-TAB OPERATION PROCEDURES**

**§ 901.731. Punchboard and pull-tab operation.**

(a) A person 17 years of age and younger or a person visibly intoxicated or visibly under the influence of a controlled substance may not be allowed to play or sell a punchboard or pull-tab. It is the responsibility of the licensee and the responsibility of the person physically selling the punchboard or pull-tab deal to determine that an unauthorized person is not allowed to play or sell.

(b) Limitations on punchboards, pull-tabs and flares are as follows:

(1) A licensed eligible organization may not permit the display or operation of a punchboard or pull-tab which may have been marked, defaced, tampered with or otherwise placed in a condition or operated in a manner which may deceive the public or which affects the chances of winning or losing upon the taking of a chance thereon.

(2) A licensed eligible organization may alter a flare to indicate that merchandise of equivalent value will substitute for a cash prize in a punchboard or pull-tab game.

(c) Records, reports and receipts relating to a punchboard or pull-tab deal in play shall be retained on the licensed premises as long as the deal or punchboard is in play and shall be made available on demand to law enforcement officers, county officials or the Department.

(d) When licensed eligible organizations purchase merchandise to be used as prizes on punchboards or pull-tab deals, the following information must be on the invoice provided by the seller:

- (1) The date of the purchase.
- (2) The company's name and adequate business address.
- (3) A full description of each item purchased.
- (4) The quantity of items purchased.
- (5) The cost per individual items purchased.

(e) Limitations on pull-tab dispensing machines are as follows:

(1) Pull-tabs may not be placed out for public play unless the total number of pull-tabs originally in the deal is clearly disclosed on the face of the flare advertising the prizes available from that deal. The total number of pull-tabs originally in the deal will be placed upon the flare by the manufacturer prior to the series being sold to a distributor.

(2) A pull-tab may not be added to a deal after that deal has been shipped from its place of manufacture.

(3) If an entire deal is not placed in a dispensing machine at one time, the pull-tabs in the deal shall be placed in the dispensing machine randomly and in a manner that does not compromise the randomization of the tickets as packaged by the manufacturer.

(4) A pull-tab deal once placed in or upon a pull-tab container out for play may not be removed from the container until the deal is permanently removed from public play, except as follows:

- (i) Pull-tabs actually played by consumers.
  - (ii) Pull-tabs removed by representatives of the county, or other law enforcement agency inspecting the games of chance.
- (5) Once a pull-tab has been removed from public play it may not again be put out for public play.
- (6) Deals may not be commingled.

(f) A person may not sell or transfer to another person in this Commonwealth, for use within this Commonwealth, or place out for public play a container for pull-tabs not so constructed to allow a consumer to clearly see the pull tabs within or upon the container prior to playing the game. Stamp machines are excluded from this requirement.

(g) A person may not sell or transfer to another person in this Commonwealth, for use within this Commonwealth, or put out for public play, a pull-tab deal which contains more than 4,000 individual pull-tabs or 4,000 stapled packets of jar tickets.

#### § 901.733. Control of prizes.

(a) Prizes shall be displayed in the immediate vicinity of the punchboard or pull-tab container and the prizes shall be in full view of a person prior to that person purchasing the opportunity to play.

(b) When the prize is cash, it shall be displayed as follows:

(1) If the punchboard or pull-tab deal contains the opportunity to win cash and merchandise prizes, the money itself may not be displayed but a coupon designating the cash available to be won shall be substituted.

(2) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the flare attached to the face or displayed in the immediate vicinity of the pull-tab container.

(c) The licensed eligible organization shall display prizes so arranged that a customer can easily determine which prizes are available from a particular punchboard or pull-tab deal located upon the premises.

(d) The prize shall be paid or delivered to the winner as soon as possible.

(e) A licensed eligible organization may not offer to pay or actually pay cash in lieu of merchandise prizes which may be won.

(f) When a person wins a cash prize of over \$100 or wins a merchandise prize with a cash value of over \$100 from the play of a punchboard or pull-tab deal, the licensed eligible organization shall make a record of the win. The record must disclose, at a minimum, the following information:

- (1) The serial number of the pull-tab deal or punchboard from which the prize was won.
- (2) The name of the punchboard or pull-tab deal.
- (3) The month, day and year of the win.
- (4) The amount of the prize won if the prize is cash.
- (5) A description of the prize won and its cash value if the prize is merchandise.
- (6) The printed full name of the winner.
- (7) The address of the winner which will include the street address, the city, the state and zip code.
- (8) The form number of the punchboard or deal.

(g) A licensed eligible organization shall keep the record of prizes awarded containing the information required in subsection (f), and of winning plays for a minimum of 2 years and shall display the record to a representative of the Department, county licensing authority, district attorney or law enforcement official upon demand. The licensed eligible organization shall immediately mark or perforate the winning pull-tab or punch so that the play cannot be presented again for payment.

#### § 901.734. Punchboard and pull-tab inventory and retention.

A licensed eligible organization shall control and account for punchboard and pull-tab games as follows:

(1) A licensed eligible organization shall closely monitor punchboards and pull-tab games purchased to assure that serial numbers are correctly entered in records and that each punchboard and pull-tab game purchased is recorded. The following control procedures apply:

(i) By the close of business on the last day of a licensed eligible organization's license term and before operating punchboards and pull-tab games after that date, the licensed eligible organization shall take a physical inventory of punchboards and pull-tab games in play and awaiting play and record the following information separately for punchboards and pull-tab games:

- (A) The name of the game.
- (B) The serial or series number.
- (C) The form number.

(ii) At the time punchboards and pull-tab games are delivered, a licensed eligible organization shall assure that purchase invoice data is correct by comparing the actual serial numbers on each punchboard or pull-tab game to the numbers entered on the purchase invoices.

(iii) The purchases of punchboards or pull-tab games shall be recorded on a standard distributor's invoice, which includes space for the licensed eligible organization to either attach a records entry label or enter the serial number and the date the punchboard or the pull-tab game was placed out for play. For punchboards or pull-tab games purchased, the licensed eligible organization shall enter the data and the serial number in the space on the invoice, adjacent to the distributors entry, by either attaching a records entry label or by written entry.

(2) A punchboard or pull-tab game which is removed from play, unplayed punches or pull-tabs and winning punches or pull-tabs for prizes in excess of \$100 shall be retained by the licensed eligible organization for at least 2 years following the last day of the month in which it was removed from play. The board, unplayed punches or pull-tabs, flare and winning punches or pull-tabs must remain available for inspection on the licensed premises.

(3) A punchboard or pull-tab game which is not placed out for public play or is not returned to the distributor from whom it was originally purchased must be retained on the licensed premises and made available for inspection for at least 2 years.

**RAFFLES**

**§ 901.741. Prize limits.**

A prize awarded may not have a value in excess of \$500 unless the raffle is conducted under a special raffle permit. A licensed eligible organization may not award more than \$5,000 in cash or merchandise in raffles in a calendar month.

**§ 901.742. Drawing dates.**

Raffles may have one or more drawing dates except a raffle where the winner is determined by a drawing conducted by the Department under the State Lottery Law, in which case the drawing date will be the date of the applicable Department drawing. The drawing dates and times must be printed on the raffle tickets.

**§ 901.743. Raffle tickets.**

(a) Tickets for entry into a raffle shall be sold or issued separately and each ticket shall constitute a separate and equal chance to win with other tickets sold or issued. A person may not be required to obtain more than one ticket, or to pay for anything other than the ticket, to enter a raffle.

(b) Tickets for use in a raffle must have a stub or other detachable section, be consecutively numbered and be accounted for separately through the use of a log book showing to whom the tickets were given to be sold. The ticket stub or other detachable section of the ticket must bear a duplicate number corresponding to the numbers on the ticket and contain the purchaser's name, complete address and telephone number. Both parts must be imprinted with sequential numbers commencing with the number "1" through the maximum number of tickets to be sold; or in the case of a raffle where the winner is determined by a drawing conducted by the Department

under the State Lottery Law, the universe of eligible ticket numbers must correspond to the universe of eligible numbers in the State Lottery drawing.

(c) A raffle ticket shall be sold for the price stated on the ticket.

(d) A person may not be required to be present at a raffle drawing to be eligible for the prize drawing or to claim the prize awarded.

(e) A ticket seller shall return the stubs or other detachable section of tickets sold to the eligible organization. The eligible organization shall then place each stub or other detachable section of ticket sold into a receptacle out of which the winning tickets are to be drawn. The receptacle must be designed so that each ticket placed therein has an equal opportunity with every other ticket to be the one withdrawn.

(f) If a ticket stub or other detachable portion was not placed in the receptacle from which the winners were drawn, prior to the drawing, the purchase price of the ticket must be refunded to the purchaser.

(g) The purchaser's name, address and telephone number must appear on the stubs or other detachable section.

**§ 901.744. Control of raffle prizes.**

A licensed eligible organization conducting a raffle in which real or personal property prizes are to be awarded shall have paid for in full or otherwise become the owner, without lien or interest of others, of the real or personal property prior to the drawing at which the winners of the prizes are to be determined.

**§ 901.745. Printing requirements.**

The following information must be printed upon each raffle ticket sold:

- (1) The dates and times of the drawings.
- (2) The location of the drawings.
- (3) The name of the licensed eligible organization conducting the raffle.
- (4) The games of chance license number of the licensed eligible organization.
- (5) The special raffle permit number, if applicable.
- (6) The price of the ticket.
- (7) The prize or prizes to be awarded.

**§ 901.746. Prize awarding.**

(a) A licensed eligible organization shall award raffle prizes on the dates indicated on the raffle ticket unless the licensed eligible organization approves a different date and purchasers of tickets are notified in writing. The dates of the drawing may be extended only if one of the following occurs:

- (1) Weather or a state of emergency declared by the Governor has caused a postponement of the event at which the drawing was to occur.
- (2) Not enough tickets are sold to cover the cost of the prizes and an extension will make a material difference.

(b) The fact that a desired level of profit will not be obtained is not a basis for an extension of the date of the drawing.

(c) If a raffle prize remains unclaimed by the winner for 90 days following the date of the raffle drawing and the licensed eligible organization has made a good faith effort to contact the winner by means of telephone and registered mail, for redemption of the prize, the licensed

eligible organization may retain the prize or award it in another game of chance. A record of the attempted contact shall be maintained for a minimum of 2 years.

**§ 901.748. Prohibition of joint raffles held by licensees.**

A licensed eligible organization may not join together with another licensed eligible organization to conduct a raffle.

**§ 901.749. Open drawing.**

(a) A drawing and allotment by chance shall be conducted openly and in plain view of players present.

(b) A licensed eligible organization shall immediately exhibit and hold open for inspection drawn raffle ticket stubs or detachable sections until the end of the raffle. A licensed eligible organization shall retain the stubs or detachable sections as provided under the act or this part.

**§ 901.751. Ticket sales.**

A licensed eligible organization may only sell raffle tickets in municipalities that have approved the use of games of chance by means of a valid local referendum in accordance with the act. A licensed eligible organization may sell raffle tickets at locations other than the licensed eligible organization premises. A licensed eligible organization that plans to sell raffle tickets in a municipality located in a county other than the county in which it is licensed shall notify that county's district attorney and licensing authority in writing of the location and date that the eligible organization plans to sell raffle tickets at least 10 days prior to selling raffle tickets in that county.

**§ 901.752. Printer requirements.**

An entity providing raffle tickets to a licensed eligible organization shall attach a copy of the organization's games of chance license to the raffle ticket purchase invoice or other document evidencing the sale. If the raffle pays a prize or prizes in excess of \$500 each, a copy of the licensed eligible organization's special raffle permit shall also be attached.

**§ 901.753. Means of determining winning numbers.**

A licensed eligible organization may use the following means to determine the winners in a raffle:

- (1) A random drawing of ticket stubs.
- (2) A passive selection device.

(3) By reference to a drawing of the Department under the State Lottery Law. Both the date and the name of the drawing that will be used must be identified on the raffle ticket. This method may only be used if the licensed eligible organization sells enough tickets equal to the universe of possible winning numbers in the Department drawing. If insufficient tickets are sold, an alternate means of determining the winning number must be used.

**§ 901.761. (Reserved).**

**§ 901.762. (Reserved).**

**§ 901.763. (Reserved).**

**§ 901.764. (Reserved).**

**§ 901.765. (Reserved).**

**§ 901.766. (Reserved).**

**§ 901.767. (Reserved).**

**§ 901.768. (Reserved).**

**§ 901.769. (Reserved).**

**§ 901.770. (Reserved).**

**§ 901.771. (Reserved).**

**§ 901.772. (Reserved).**

**§ 901.773. (Reserved).**

**§ 901.774. (Reserved).**

**§ 901.775. (Reserved).**

**§ 901.776. (Reserved).**

**§ 901.777. (Reserved).**

**§ 901.778. (Reserved).**

**DAILY DRAWINGS**

**§ 901.781. Daily drawing procedures.**

(a) A licensed eligible organization may sell chances for and hold only one daily drawing during each operating day. A bona fide member may purchase a chance in a daily drawing only during the operating day on which the drawing will be held.

(b) Daily drawing winners must be determined by random drawing. Daily drawing winners may be determined with the aid of a passive selection device or by reference to drawings conducted by the Department under the State Lottery Law.

(c) A daily drawing must take place on the eligible organization's licensed premises and be conducted in plain view.

(d) A daily drawing must begin and end on the same operating day. An eligible organization may conduct no more than 7 daily drawings during an operating week.

(e) A licensed eligible organization may not sell chances for or conduct a daily drawing during a period when weekly drawing chances are being sold or a weekly drawing is taking place.

(f) Immediately prior to each daily drawing, the eligible organization shall announce the prize amount for the drawing.

(g) The name of a daily drawing prize winner or the fact that a winner was not selected must be prominently displayed on the licensed premises for at least 7 days after the drawing date. If a winner does not claim a prize within 7 days of the drawing, the eligible organization shall notify the winner of the prize and the requirements for claiming the prize. See § 901.784 (relating to claiming prizes).

**§ 901.782. Daily drawing chances.**

(a) Only a bona fide member of an eligible organization may purchase a chance in a daily drawing.

(b) A licensed eligible organization shall sell a chance in a daily drawing only to a bona fide member.

(c) A chance in a daily drawing may not be sold to or purchased by one bona fide member for the benefit of another bona fide member.

(d) A licensed eligible organization may not sell a chance in a daily drawing for more than \$1.

(e) A licensed eligible organization may sell no more than one chance per daily drawing to each of its bona fide members.

(f) A chance in a daily drawing may be sold and purchased only on the eligible organization's licensed premises.

**§ 901.783. Posting rules.**

(a) An eligible organization shall prominently display the rules for each daily drawing in the area where the chances for the drawing are sold.

(b) At a minimum, the posted rules must include:

- (1) The cost of the chance.
- (2) The manner of selecting the winner.
- (3) The time during which chances may be purchased.
- (4) The time of the drawing.
- (5) The payout percentage.

(6) Whether the drawing is a carryover drawing and the amount of the carryover jackpot.

(7) The requirements and time limits for claiming prizes as provided for in § 901.784 (relating to claiming prizes).

**§ 901.784. Claiming prizes.**

(a) The winner of a daily drawing need not be present at the time of the drawing to claim the prize.

(b) An eligible organization may not impose a penalty or limit the amount of a prize based upon a winning member's nonattendance at the time of the drawing.

(c) Only the daily drawing winner may claim the daily drawing prize.

(d) A daily drawing winner shall claim the prize in person and sign for receipt of the prize.

(e) A prize winner shall claim the prize within 30 days from the date of the drawing.

**§ 901.785. Invalid State Lottery drawing.**

A drawing of the State Lottery that is invalidated must also result in an invalid drawing in a licensed eligible organization's daily drawing which is tied to the State Lottery drawing.

**§ 901.786. Unclaimed prize money.**

A daily drawing prize that remains unclaimed more than 30 days after the drawing shall be retained by the eligible organization for public interest purposes.

**WEEKLY DRAWINGS**

**§ 901.791. Weekly drawing procedures.**

(a) A licensed eligible organization may sell chances for and hold only one weekly drawing during an operating week. Bona fide members may purchase chances in a weekly drawing only during the operating week in which the drawing will be held. The drawing shall be held at the end of the operating week.

(b) Weekly drawing winners must be determined by random drawing. Weekly drawing winners may be determined with the aid of a passive selection device or with reference to drawings conducted by the Department under the State Lottery Law.

(c) A weekly drawing must take place on the eligible organization's licensed premises and be conducted in plain view.

(d) A licensed eligible organization may not sell chances for or conduct a weekly drawing during a period when daily drawing chances are being sold or a daily drawing is taking place.

(e) Immediately prior to each weekly drawing the eligible organization shall announce the prize amount for the drawing.

(f) The name of a weekly drawing prize winner or the fact that a winner was not selected must be prominently displayed on the licensed premises for at least 7 days after the drawing date. If a winner does not claim a prize within 7 days of the drawing, the eligible organization shall notify the winner of the prize and the requirements for claiming the prize. See § 901.784 (relating to claiming prizes).

**§ 901.792. Weekly drawing chances.**

(a) Only a bona fide member of an eligible organization may purchase chances in a weekly drawing.

(b) A licensed eligible organization shall sell chances in a weekly drawing only to a bona fide member.

(c) Chances in a weekly drawing may not be sold to or purchased by one bona fide member for the benefit of another bona fide member.

(d) A licensed eligible organization may not sell chances in a weekly drawing for more than \$1 each.

(e) Chances in a weekly drawing may be sold and purchased only on the eligible organization's licensed premises.

**§ 901.793. Posting rules.**

(a) An eligible organization shall prominently display the rules for each weekly drawing in the area where the chances for the drawing are sold.

(b) At a minimum, the posted rules must include:

- (1) The cost of the chance.
- (2) The manner of selecting the winner.
- (3) The time during which chances may be purchased.
- (4) The time of the drawing.
- (5) The payout percentage.

(6) Whether the drawing is a carryover drawing and the amount of the carryover jackpot.

(7) The requirements and time limits for claiming prizes as provided for in § 901.794 (relating to claiming prizes).

**§ 901.794. Claiming prizes.**

(a) The winner of a weekly drawing need not be present at the time of the drawing to claim the prize.

(b) An eligible organization may not impose a penalty or limit the amount of a prize based upon a winning member's nonattendance at the time of the drawing.

(c) Only the weekly drawing winner may claim the weekly drawing prize.

(d) A weekly drawing winner shall claim the prize in person and sign for receipt of the prize.

(e) A prize shall be claimed within 30 days from the date of the drawing.

**§ 901.795. Invalid State Lottery drawing.**

A drawing of the State Lottery that is invalidated must also result in an invalid drawing in a licensed eligible organization's weekly drawing which is tied to the State Lottery drawing.

**§ 901.796. Unclaimed prize money.**

A licensed eligible organization shall retain for public interest purposes a weekly drawing prize that remains unclaimed more than 30 days after the drawing.

**Subchapter H. SPECIAL RAFFLE PERMITS****SPECIAL RAFFLE PERMITS****§ 901.801. Prize limit.**

The total value of all special raffle permit prizes during a calendar year may be no more than \$100,000.

**§ 901.802. Raffle number limit.**

Only one raffle may be conducted under each special raffle permit.

**§ 901.803. Special raffle permit limit.**

A licensed eligible organization is eligible to receive two special raffle permits in a calendar year, except volunteer fire, ambulance and rescue organizations are eligible to receive three special raffle permits in a calendar year.

**§ 901.804. Issuance of permits.**

Special raffle permits shall be obtained from the licensing authority at least 30 days before the date on which ticket sales are to begin.

**§ 901.805. Rule applicability.**

The rules contained in this part apply to special raffle permits. To the extent they are inconsistent with §§ 901.801—901.804, this section and §§ 901.806—901.811, these provisions supersede those elsewhere in this part.

**§ 901.806. Required permit.**

A special raffle permit is required for each raffle in which a licensed eligible organization proposes to award an individual prize having a cash value in excess of \$500 or total prizes having a cash value in excess of \$5,000.

**§ 901.807. (Reserved).****§ 901.808. Special raffle permit application.**

The application for a special raffle permit must be made to the licensing authority. The application must include the following information:

- (1) The licensed eligible organization's name.
- (2) The licensed eligible organization's games of chance license number.
- (3) The location of the drawing.
- (4) The number of chances to be sold.
- (5) The price per chance.
- (6) The cash value of the prizes to be awarded.
- (7) The date of the drawing.
- (8) The date sales will begin.
- (9) The certified statement that this part, including the advertising prohibition, will be obeyed.

**§ 901.810. Effective period.**

A special raffle permit will remain effective from the date on which ticket sales begin until the earlier of the date of the drawing, the expiration date of their games of chance license held when the special raffle permit was issued or 6 months.

**§ 901.811. (Reserved).**

[Pa.B. Doc. No. 06-1543. Filed for public inspection August 11, 2006, 9:00 a.m.]