

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF MEDICINE STATE BOARD OF OSTEOPATHIC MEDICINE [49 PA. CODE CHS. 16, 18 AND 25] Athletic Trainers

The State Boards of Medicine and Osteopathic Medicine (Boards) amend Chapters 16, 18 and 25 to read as set forth in Annex A.

#### A. *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

#### B. *Statutory Authority*

Section 51.1(d) of the Medical Practice Act of 1985 (63 P. S. § 422.51a(d)) and section 7.1(d) of the Osteopathic Medical Practice Act (63 P. S. § 271.7a(d)) (medical practice acts) authorize the Boards to jointly promulgate regulations that establish approved education and training programs for certification of athletic trainers and define the circumstances and protocol under which a certified athletic trainer may perform athletic training services.

#### C. *Background and Purpose*

Under the Physical Therapy Practice Act (formerly 63 P. S. §§ 1301, 1310.1 and 1310.2), the State Board of Physical Therapy certified and regulated athletic trainers in this Commonwealth.

The acts of December 10, 2001 (P. L. 859, No. 92) and (P. L. 863, No. 93) (Acts 92 and 93) repealed these provisions insofar as they are inconsistent with the medical practice acts. Acts 92 and 93 added section 51.1(d) to the Medical Practice Act of 1985 and section 7.1(d) to the Osteopathic Medical Practice Act to provide for the certification and regulation of athletic trainers by the Boards. Acts 92 and 93, effective February 8, 2002, further provided that until the Boards adopt final-form regulations, the regulations of the State Board of Physical Therapy in Chapter 40, Subchapter B (relating to athletic trainers) govern the activities of athletic trainers, which are not inconsistent with amendments to the medical practice acts. The Boards are adopting these amendments to establish procedures for certification and protocols for the practice of athletic trainers.

#### D. *Summary of Comments to Proposed Rulemaking and the Boards' Responses*

The proposed rulemaking was published at 36 Pa.B. 1233 (March 18, 2006). The Boards entertained public comment for a period of 30 days, during which time the Boards received comments from the Pennsylvania Athletic Trainers' Society, Inc. (PATS), the Pennsylvania Physical Therapy Association (PPTA) and an individual certified athletic trainer. Following the close of the public comment period, the Boards received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The following summarizes the comments received and provides the Boards' responses.

#### *§ 16.61. Unprofessional and immoral conduct.*

The HPLC noted that subsection (a)(18) makes it unprofessional conduct for a Board-regulated practitioner to fail to complete reports needed for reimbursement by an insurance company of the medical expenses of a patient. In light of the change in focus in this section from "physicians" to "Board-regulated practitioners," the HPLC suggested this language be amended to refer to expenses that result from the practice of the healing arts. The State Board of Medicine had no objection to this suggestion and made the change to the final-form rulemaking.

#### *§§ 18.502 and 25.702. Definitions.*

The HPLC commented that there was a minor discrepancy in the definition of "direction" between the two Boards' versions in that § 18.502 used "via" while § 25.702 used "by means of." The Legislative Reference Bureau corrected this situation when the proposed rulemaking was published so that both versions use the generally accepted "by means of."

The HPLC also noted that the word "and" appears in the definition of "written protocol" in § 18.502, but is absent from the same definition in § 25.702. This situation has been remedied by deleting it from § 18.502.

#### *§§ 18.503 and 25.703. Certification requirement.*

The HPLC sought clarification regarding the exceptions to the general rule that a person may not use the title of athletic trainer or perform athletic training services unless certified by the Board. The HPLC observed that the exceptions in subsection (b) seem to permit other types of licensees to call themselves athletic trainers. The intent of the exceptions was to permit other duly licensed practitioners of the healing arts to perform services within the scope of practice for which they were trained, not to permit them to call themselves athletic trainers. IRRC agreed that this section should be rewritten to clarify the Boards' intentions. In the final-form rulemaking, the Boards amended these sections to clarify their intent. Subsection (a) discusses the use of the title "athletic trainer" and subsection (b) discusses the general prohibition on the practice of athletic training unless certified, with the exceptions provided for other duly licensed practitioners of the various healing arts practicing within the scope of practice for which they were trained, athletic trainers licensed or certified in other jurisdictions who are employed by a visiting athletic team or organization, and students whose performance of athletic training services is coincidental to their education and training.

PPTA suggested adding a notice requirement for out-of-State athletic trainers who are required to be in this Commonwealth for an extended period of time. The Boards have elected not to adopt this suggestion.

The HPLC noted an inconsistency between §§ 18.503(c) and 25.703(c) regarding former certificateholders under the State Board of Physical Therapy. Section 18.503(c) has been amended to remedy the inconsistency.

#### *§§ 18.504 and 25.704. Application for certification.*

The HPLC noted that both Boards are setting a minimum age for certification as an athletic trainer at 20 years of age although the enabling acts are silent with regard to an age requirement. The Boards adopted the age limitation that had been established by the State

Board of Physical Therapy, which has been in effect since 1987. Under this final-form rulemaking, an applicant shall complete an approved athletic training education program to be eligible for certification. These programs are available at the bachelor's degree and master's degree levels. Normally, an individual would be at least 20 years of age by the time they meet the educational requirements for certification. Therefore, the Boards find this age limitation reasonable. In addition, the Boards are not aware of a situation when the age limitation became a barrier to an applicant for certification since its original adoption by the State Board of Physical Therapy in 1987. The Boards may reevaluate this requirement if it proves to be an impediment to otherwise qualified applicants.

IRRC asked how the Boards intend to determine whether an applicant meets the requirement that "an applicant may not be addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination." This requirement is standard language required for licensure or certification in the health-related professions in this Commonwealth. To enforce this provision, the Boards require applicants to certify that they are not addicted to drugs or alcohol. In addition, the Boards ask a number of questions on the licensure/certification applications that may indicate drug or alcohol related problems, such as prior convictions, disciplinary actions in other jurisdictions, loss of hospital privileges and so forth. If an applicant supplies an answer that indicates potential problems with drugs or alcohol, the application is reviewed by the Bureau of Professional and Occupational Affairs' (Bureau) Professional Health Monitoring Program. A false statement on an application subjects the applicant to criminal penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) and to disciplinary action including the refusal or revocation of a license or certificate.

The HPLC also noted a typographical error in § 25.704(a)(4) which has been corrected in the final-form rulemaking.

*§§ 18.505 and 25.705. Educational requirements.*

The HPLC and IRRC asked for clarification of the educational requirements. Sections 18.505 and 25.705 require that an applicant for certification as an athletic trainer be a graduate of an accredited athletic training education program or hold and maintain current credentialing as a certified athletic trainer (ATC) by the Board of Certification, Inc. (BOC). Entry-level athletic training education programs are accredited by the Commission on Accreditation of Athletic Training Education (CAATE). CAATE and the National Athletic Trainers Association (NATA) accredit master's degree programs in athletic training. Accredited programs offer either a baccalaureate or master's degree in athletic training. Accredited programs generally include basic coursework in applied mathematics, biology, chemistry, psychology, communications and so forth, as well as courses in medical terminology, anatomy and physiology, kinesiology and biomechanics, therapeutic modalities, injury evaluation and prevention, strength and conditioning, rehabilitation sciences, exercise physiology and related courses. During their education, athletic training students participate in clinical education in a variety of practice settings such as high schools, colleges, universities, hospitals, physicians' offices and health care clinics. There are currently 19 accredited athletic training education programs operating at colleges and universities in this Commonwealth.

Currently, to obtain the ATC credential from the BOC, a candidate shall be a graduate of an entry-level athletic training education program accredited by CAATE. Prior to 2004, internship was an alternative route to BOC certification. The BOC has eliminated the internship route to BOC certification and new candidates shall now graduate from a CAATE-accredited program. To maintain BOC certification, an ATC shall adhere to the BOC Standards of Professional Practice, maintain certification in emergency cardiac care and complete 75 continuing education contact hours every 3 years. At the present time, the BOC is the only organization that offers this type of credential to athletic trainers. The regulations refer to "another credentialing body approved by the Board" to recognize that the profession is dynamic and there may be other organizations formed in the future for this purpose. If another credentialing body is approved by the Boards, the Boards will provide notice to certificateholders through the Boards' websites and newsletters. In addition, the application for certification will include all approved credentials accepted by the Boards.

The HPLC also asked whether the registered trademark symbol should be removed from "ATC" in paragraph (2). The Boards agree and deleted the symbol.

IRRC requested that these sections be amended to use the defined term "approved athletic training education program" in place of "accredited educational program for athletic trainers" and "accredited education program." The Boards made the requested changes.

*§§ 18.507 and 25.707. Temporary certification.*

The HPLC noted that section 51.1(b) of the Medical Practice Act of 1985 and section 7.1(b) of the Osteopathic Medical Practice Act provide for temporary certification of athletic trainers who were previously certified by the State Board of Physical Therapy prior to the amendments made by Acts 92 and 93. However, §§ 18.507 and 25.707 appear to be creating another type of temporary certificate. Therefore, the HPLC requested an explanation of the effect of this provision.

To become certified as an athletic trainer, a graduate of an accredited athletic training education program shall pass the certification examination administered by the BOC. The BOC offers the examination several times throughout the year at approximately 16 locations across the United States. However, some applicants for examination may find the next test date at their chosen location is full and may have to wait until a subsequent administration of the examination or travel to another test site. The BOC will be transitioning to a computer-based examination that will eventually be offered at over 200 exam sites across the United States and Canada. Until then, the Boards felt it necessary to create a mechanism to provide graduates of accredited athletic education programs the ability to begin their athletic training careers under the direct onsite supervision of a certified athletic trainer until they have the opportunity to take the certification exam.

IRRC and PATS both suggested that the reference to the Commission for Accreditation of Allied Health Education Programs (CAAHEP) be deleted from this section. In light of the fact that CAATE now accredits athletic trainer education programs, and to avoid having to amend the regulations in the future should this organization again change, the Boards have adopted IRRC's suggestion and use the defined term "approved athletic training education programs" in these sections.

PATS suggested that temporary certificateholders be required to report to the Boards whether the temporary certificateholder had passed, failed or failed to take the certification examination within 30 days of the expiration of the temporary certification period. The Boards have elected not to adopt this recommendation believing it to be unnecessary. If a temporary certificateholder passes the examination, it is the temporary certificateholder's responsibility to report it to the Board to be certified. If no report is made to the Board within 1 year, the temporary certificate will expire and may not be renewed.

Additionally, the HPLC noted that § 25.707 included the additional statement that temporary certificates may not be renewed. This statement has been added to § 18.507 in the final-form rulemaking.

*§ 18.508. Renewal of certification.*

*§ 25.708. Renewal of certificate.*

The HPLC noted that the State Board of Medicine requires that continuing education certificates be maintained for 2 years, while the State Board of Osteopathic Medicine requires them to be maintained for 4 years. The difference is due to the different administrative capacities of the two Boards in conducting continuing education audits. These requirements were intended to be consistent within each Board, not between the two Boards. Acts 92 and 93 place jurisdiction over athletic trainers who are supervised by medical doctors with the State Board of Medicine and those supervised by doctors of osteopathic medicine with the State Board of Osteopathic Medicine. An athletic trainer who is supervised by more than one physician from both Boards could comply with both regulations simply by maintaining all continuing education certificates for 4 years.

In addition, the HPLC noted that with respect to §§ 18.508(d) and 25.708(d), the medical regulations provide for a \$5 penalty fee for untimely renewals and the osteopathic medical regulations do not. The \$5 late fee is provided for in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (Fee Act) (63 P. S. § 1401-225) and applies to all of the board and commissions under the Bureau. The State Board of Medicine included it in the rulemaking to provide certificateholders with additional notice of the fee for late renewal. Therefore, § 25.708(d) is amended in the final-form rulemaking to likewise provide notice to athletic trainers certified by the State Board of Osteopathic Medicine. IRRC commented that a cross-reference to the Fee Act should be added to the final-form rulemaking. The Boards have done so.

IRRC suggested that subsection (e) be deleted from this section and a new section regarding continuing education be added. The Boards responded to this suggestion by adding §§ 18.511 and 25.711 (relating to continuing education).

One individual certified athletic trainer who was originally certified by the State Board of Physical Therapy in 1987 expressed concern about whether he would be able to comply with the BOC continuing education requirements because he is not certified by the BOC and is not eligible to take the BOC certification exam. Former certificateholders under the State Board of Physical Therapy are deemed certified under the regulations without further action. However, to renew their certificates, they will need to comply with the continuing education requirements. It is not the Board's intent to require certificateholders to become BOC certified. In addition, the BOC confirmed that one does not have to be an ATC

to take continuing education courses from the BOC approved providers, colleges and universities. Therefore, current certificateholders will be able to comply with the continuing education requirements without becoming certified by the BOC.

*§§ 18.509 and 25.709. Practice standards for athletic trainers.*

The HPLC and IRRC asked whether a physically active person being referred by a podiatrist or dentist should have the results of the required medical exam reviewed by the dentist or podiatrist. The Boards note that this section is inconsistent with § 25.709, which includes review by a dentist or podiatrist. Therefore, § 18.509(a)(3) has been amended to include review by the referring dentist or podiatrist.

In addition, the HPLC noted that these sections permit a podiatrist or dentist to issue a standing written prescription or protocol. The HPLC noted that with respect to a protocol, both enabling acts only mention a physician. These sections have been amended to clarify that an athletic trainer must ensure that the physically active person have a referral or prescription for athletic trainer services from a physician, podiatrist or dentist, or be subject to a written protocol from a physician.

IRRC noted that the Pennsylvania Physical Therapists Association recommended that the review of the written protocol occur more frequently than annually and asked how the Boards determined that an annual review is appropriate. The Boards believe that an annual review of the written protocol is an appropriate standard within the profession. The regulations already provide for on-going communication between the athletic trainer and the supervising physician. In fact, the written protocol itself is required to describe the manner and frequency of communications between the athletic trainer and the supervising physician. However, the intent was to establish a minimum requirement. Therefore, the final-form rulemaking has been amended to require the review occur "at least" annually.

Finally, the HPLC noted that in the medical regulations, the responsibility is on the athletic trainer to obtain the standing written prescription or protocol, when the osteopathic physician regulations place the responsibility on the supervising physician, dentist or podiatrist to provide the standing written prescription or protocol. In recognition of the fact that this rulemaking is intended to regulate the conduct of athletic trainers, § 25.709(c) has been rewritten to mirror the language in § 18.509(c).

#### *E. Description of the Amendments*

With regard to the State Board of Medicine, § 16.1 (relating to definitions) is amended to define "treatment regimen" to describe the service provided by athletic trainers. This term is also of a broad enough nature that the clinical service provided by other State Board of Medicine-regulated practitioners could come under this umbrella term. It provides flexibility to the State Board of Medicine in regulating its licensees and certificateholders and ensures uniformity in regulation. Section 16.61 (relating to unprofessional and immoral conduct) is also amended by replacing the term "physician" with "Board-regulated practitioner" so that athletic trainers and other practitioners licensed by the State Board of Medicine would be subject to the regulation. At the request of the HPLC, § 16.61(a)(18) has been amended to refer to payment by a third party of the expenses of a patient that result from treatment of the healing arts.

The Boards are amending §§ 16.13 and 25.31 (relating to licensure, certification, examination and registration fees; and schedule of fees) to carry over the fees currently in place under the regulations of the State Board of Physical Therapy in § 40.5 (relating to fees).

The Boards are adding Chapter 18, Subchapter H and Chapter 25, Subchapter M (relating to athletic trainers) to provide for the certification and regulation of athletic trainers.

Sections 18.501 and 25.701 (relating to purpose) provide a general statement of the purpose of this final-form rulemaking. Sections 18.502 and 25.702 (relating to definitions) define key terms used throughout the subchapters. The definitions of "direction" and "standing written prescription" have been amended in the final-form rulemaking in response to the HPLC's observation that the legislation refers to the written protocol in conjunction with physicians only, not dentists or podiatrists.

Sections 18.503 and 25.703 (relating to certification requirements) set forth the requirement for certification of persons using the title of or performing athletic trainer services in this Commonwealth. The final-form rulemaking was amended in response to comments from the HPLC and IRRC. Subsection (a) was amended to refer solely to the use of the title. Subsection (b) now prohibits the practice of athletic training unless certified, with exceptions provided for licensed practitioners of the healing arts practicing within the scope of practice for which they are trained, a licensed or certified athletic trainer from another jurisdiction who is employed by a visiting athletic team or organization competing in this Commonwealth, and student athletic trainers whose practice of athletic training is coincidental to the student's education.

In addition, §§ 18.503(c) and 25.703(c) with regard to former athletic training certificateholders under the State Board of Physical Therapy have been amended in the final-form rulemaking to mirror each other.

Sections 18.504 and 25.704 (relating to application for certification) delineate the documentation and information required to apply for certification.

Sections 18.505 and 25.705 (relating to educational requirements) set forth the educational requirements for certification. The requisite education can met by having graduated from an approved athletic training education program or by holding a current credential as a certified athletic trainer from the BOC or another accrediting body approved by the Board.

Sections 18.506 and 25.706 (relating to examination requirement) provide that applicants shall achieve a passing score on the BOC examination or an equivalent examination approved by the Board.

Sections 18.507 and 25.707 (relating to temporary certification) provide for temporary certification for applicants who have completed their education and have applied to take the examination. An applicant may practice under a temporary certificate under the direct supervision of a certified athletic trainer for up to 1 year or until certification, whichever occurs first. Section 18.507 has been amended in the final-form rulemaking to delete the reference to the CAAHEP because athletic training programs are now accredited by the CAATE. To avoid the need to amend this section every time the accrediting body changes, the section now simply refers to "approved athletic training education programs" as suggested by IRRC. This section was also amended to mirror § 25.707 by adding the phrase "and may not be renewed."

Section 18.508 and 25.708 (relating to renewal of certification; and renewal of certificate) provide for biennial renewal of certificates. Section 25.708 has been amended in the final-form rulemaking to clarify that all athletic trainer certifications under both Boards must be renewed by December 31 of even-numbered years. At the suggestion of IRRC, a cross-reference to the Fee Act has been added. In addition, at the suggestion of IRRC, the continuing education requirements have been removed from these sections and §§ 18.511 and 25.711 have been added to the final-form rulemaking.

Sections 18.509 and 25.709 (relating to practice standards for athletic trainers) contain provisions regarding referrals and protocols for treatment, retention of records and circumstances under which consultation with or referral to a physician, dentist or podiatrist is required. Subsection (a) also makes these standards applicable to an athletic trainer certified by any other state, commonwealth, Canadian province or territory or the District of Columbia when providing services to a team or organization in this Commonwealth. These sections have been amended in the final-form rulemaking to clarify that an athletic trainer shall secure a written referral or prescription from a licensed physician, dentist or podiatrist, or shall be subject to a written protocol from a licensed physician. Sections 18.509(a)(3) and 25.709(a)(3) have been amended to require the referring physician, dentist or podiatrist to review the results of a recently performed medical diagnostic examination prior to treatment by an athletic trainer. Finally, §§ 18.509(c) and 25.709(c) have been amended to require the athletic trainer to obtain the protocol or standing written prescription from the supervising physician and to require review of the written protocol or standing written prescription at least annually.

Sections 18.510(a) and 25.710(a) (relating to refusal, suspension or revocation of certificate) authorize the Boards to impose disciplinary action against athletic trainers under section 41 of the Medical Practice Act of 1985 (63 P.S. § 422.41) as set forth in § 16.61, and section 15(b) of the Osteopathic Practice Act (63 P.S. § 271.15(b)). Subsection (b) provides for the applicability of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the activities of and proceedings before the Boards regarding athletic trainers. The language is included to direct applicants and certificateholders to the procedural provisions that govern the Boards' actions.

Finally, §§ 18.511 and 25.711 have been added to the final-form rulemaking to provide for the continuing education of athletic trainers.

#### F. *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions because the sole purpose of the amendments is to transfer regulatory authority over athletic trainers from the State Board of Physical Therapy to the Boards. For this reason also, the final-form rulemaking will impose no additional paperwork requirements on the public sector.

#### G. *Sunset Date*

The Boards continuously monitor the effectiveness of their regulations. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 8, 2006, the Boards submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 1233, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (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 May 23, 2007, this final-form rulemaking was approved by the HPLC. On June 6, 2007, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 7, 2007, and approved the final-form rulemaking.

I. Contact Persons

Further information may be obtained by contacting Sabina I. Howell, Board Counsel, State Board of Medicine, or Beth Sender Michlovitz, Counsel, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649.

J. Findings

The Boards find 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 36 Pa.B. 1233.

(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 Boards, acting under their authorizing statutes, order that:

(a) The regulations of the Boards, 49 Pa. Code, Chapters 16, 18 and 25, are amended by amending §§ 16.1, 16.13 and 16.61 and 25.231 and by adding §§ 18.501—18.511 and 25.701—25.711 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor's Note: The addition of §§ 18.511 and 25.711 was not included in the proposed rulemaking published at 36 Pa.B. 1233.)

(b) The Boards 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 Boards 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  
State Board of Medicine

CHARLES P. FASANO, D.O.,  
Chairperson  
State Board of Osteopathic Medicine

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2909 (June 23, 2007).)

**Fiscal Note:** Fiscal Note 16A-4915 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 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS**

**Subchapter A. BASIC DEFINITIONS AND INFORMATION**

**§ 16.1. Definitions.**

The following words and terms, when used in this chapter and Chapters 17 and 18 (relating to State Board of Medicine—medical doctors; and State Board of Medicine—practitioners other than medical doctors), have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Treatment regimen*—The provision of care and practice of a component of the healing arts by a Board-regulated practitioner.

\* \* \* \* \*

**Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS**

**§ 16.13. Licensure, certification, examination and registration fees.**

\* \* \* \* \*

(h) *Athletic Trainer:*

Application for certification ..... \$20  
Biennial renewal ..... \$37

(i) *Verification or Certification:*

Verification of status ..... \$15  
Certification of records ..... \$25

(j) *Examination Fees:*

The State Board of Medicine has adopted Nationally recognized examinations in each licensing class. Fees are established by the National owners/providers of the examinations and are indicated in the examination applications.

## Subchapter E. MEDICAL DISCIPLINARY PROCESS AND PROCEDURES

### COMPLAINTS

#### § 16.61. Unprofessional and immoral conduct.

(a) A Board-regulated practitioner who engages in unprofessional or immoral conduct is subject to disciplinary action under section 41 of the act (63 P.S. § 422.41). Unprofessional conduct includes, but is not limited to, the following:

(1) Revealing personally identifiable facts, obtained as the result of a practitioner-patient relationship, without the prior consent of the patient, except as authorized or required by statute.

(2) Violating a statute, or a regulation adopted thereunder, which imposes a standard for the practice of the healing arts as regulated by the Board in this Commonwealth. The Board, in reaching a decision on whether there has been a violation of a statute, rule or regulation, will be guided by adjudications of the agency or court which administers or enforces the standard.

(3) Performing a medical act or treatment regimen incompetently or performing a medical act or treatment regimen which the Board-regulated practitioner knows or has reason to know that the practitioner is not competent to perform.

(4) Unconditionally guaranteeing that a cure will result from the performance of medical services or treatment regimen.

(5) Advertising of a medical business which is intended to or has a tendency to deceive the public.

(6) Practicing the healing arts fraudulently, or with reckless indifference to the interests of a patient on a particular occasion, or with negligence on repeated occasions.

(7) Practicing the healing arts while the ability to practice is impaired by alcohol, drugs or physical or mental disability.

(8) Knowingly permitting, aiding or abetting a person who is not licensed or certified, or exempt from license or certification requirements, to perform activities requiring a license or certification in a health care practice.

(9) Continuing to practice while the Board-regulated practitioner's license or certificate has expired, is not registered or is suspended or revoked.

(10) Impersonating another health-care practitioner.

(11) Possessing, using, prescribing for use or distributing a controlled substance or a legend drug in a way other than for an acceptable medical purpose. An acceptable experimental purpose is considered an acceptable medical purpose.

(12) Offering, undertaking or agreeing to cure or treat a disease by a secret method, procedure, treatment or medicine, or the treating, operating or prescribing for a human condition by a method, means or procedure which the licensee refuses to divulge to the Board upon demand of the Board.

(13) Charging a patient or a third-party payor for a medical service or treatment regimen not performed. This paragraph does not apply to charging for an unkept office visit.

(14) Delegating a medical responsibility to a person when the physician knows or has reason to know that the person is not qualified by training, experience, license or certification to perform the delegated task.

(15) Failing to exercise appropriate supervision over a person who is authorized to practice only under the supervision of the physician.

(16) Willfully harassing, abusing or intimidating a patient.

(17) Abandoning a patient. Abandonment occurs when a physician withdraws his services after a physician-patient relationship has been established, by failing to give notice to the patient of the physician's intention to withdraw in sufficient time to allow the patient to obtain necessary medical care. Abandonment also occurs when a physician leaves the employment of a group practice, hospital, clinic or other health-care facility, without the physician giving reasonable notice and under circumstances which seriously impair the delivery of medical care to patients.

(18) Failing to make available to the patient or to another designated health care practitioner, upon a patient's written request, the medical record or a copy of the medical record relating to the patient which is in the possession or under the control of the Board-regulated practitioner; or failing to complete those forms or reports, or components of forms or reports, which are required to be completed by the Board-regulated practitioner as a precondition to the reimbursement or direct payment by a third party of the expenses of a patient that result from the practice of the healing arts. Reasonable fees may be charged for making available copies, forms or reports. Prior payment for professional services to which the records relate—this does not apply to fees charged for reports—may not be required as a condition for making the records available. A Board-regulated practitioner may withhold information from a patient if, in the reasonable exercise of his professional judgment, he believes release of the information would adversely affect the patient's health.

(19) Violating a provision of this chapter, Chapter 17 or Chapter 18 (relating to State Board of Medicine—medical doctors; or State Board of Medicine—practitioners other than medical doctors) fixing a standard of professional conduct.

(b) Immoral conduct includes, but is not limited to, the following:

(1) Misrepresentation or concealment of a material fact in obtaining a license or a certificate issued by the Board or a reinstatement thereof.

(2) The commission of an act involving moral turpitude, dishonesty or corruption when the act directly or indirectly affects the health, welfare or safety of citizens of this Commonwealth. If the act constitutes a crime, conviction thereof in a criminal proceeding is not a condition precedent to disciplinary action.

**CHAPTER 18. STATE BOARD OF  
MEDICINE—PRACTITIONERS OTHER THAN  
MEDICAL DOCTORS**

**Subchapter H. ATHLETIC TRAINERS**

Sec.	
18.501.	Purpose.
18.502.	Definitions.
18.503.	Certification requirement.
18.504.	Application for certification.
18.505.	Educational requirements.
18.506.	Examination requirement.
18.507.	Temporary certification.
18.508.	Renewal of certification.
18.509.	Practice standards for athletic trainers.
18.510.	Refusal, suspension or revocation of certificate.
18.511.	Continuing education.

**§ 18.501. Purpose.**

This subchapter implements section 51.1 of the act (63 P. S. § 422.51a) to provide for the certification and practice standards of athletic trainers.

**§ 18.502. Definitions.**

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

*Approved athletic training education programs*—An athletic training education program that is accredited by a Board-approved Nationally recognized accrediting agency.

*Athletic training services*—The management and provision of care of injuries to a physically active person, with the direction of a licensed physician.

(i) The term includes the rendering of emergency care, development of injury prevention programs and providing appropriate preventative and supportive devices for the physically active person.

(ii) The term also includes the assessment, management, treatment, rehabilitation and reconditioning of the physically active person whose conditions are within the professional preparation and education of a certified athletic trainer.

(iii) The term also includes the use of modalities such as: mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage and the use of therapeutic exercise, reconditioning exercise and fitness programs.

(iv) The term does not include surgery, invasive procedures or prescription of any medication or controlled substance.

*BOC*—The Board of Certification, Inc., a National credentialing organization for athletic trainers.

*Certified athletic trainer*—A person who is certified to perform athletic training services by the Board or by the State Board of Osteopathic Medicine.

*Direction*—Supervision over the actions of a certified athletic trainer by means of referral by prescription to treat conditions for a physically active person from a licensed physician, dentist or podiatrist or written protocol approved by a supervising physician, except that the physical presence of the supervising physician, dentist or podiatrist is not required if the supervising physician, dentist or podiatrist is readily available for consultation by direct communication, radio, telephone, facsimile, telecommunications or by other electronic means.

*Physically active person*—An individual who participates in organized, individual or team sports, athletic games or recreational sports activities.

*Referral*—An order from a licensed physician, dentist or podiatrist to a certified athletic trainer for athletic training services. An order may be written or oral, except that an oral order must be reduced to writing within 72 hours of issuance.

*Standing written prescription*—A portion of the written protocol or a separate document from a supervising physician, which includes an order to treat approved individuals in accordance with the protocol.

*Written protocol*—A written agreement or other document developed in conjunction with one or more supervising physicians, which identifies and is signed by the supervising physician and the certified athletic trainer, and describes the manner and frequency in which the certified athletic trainer regularly communicates with the supervising physician and includes standard operating procedures, developed in agreement with the supervising physician and certified athletic trainer, that the certified athletic trainer follows when not directly supervised onsite by the supervising physician.

**§ 18.503. Certification requirement.**

(a) A person may not use the title “athletic trainer” or “certified athletic trainer” or use any abbreviation including “A.T.,” “A.T.C.” or “C.A.T.” or any similar designation to indicate that the person is an athletic trainer unless that person has been certified by the Board.

(b) Except as otherwise provided in this subsection, a person may not perform the duties of an athletic trainer unless that person is certified by the Board. This provision is not intended to prevent the following:

(1) A person trained and licensed or certified under any other law from engaging in the licensed or certified practice in which the person is trained.

(2) An athletic trainer from another state, province, territory or the District of Columbia, who is employed by an athletic team or organization that is competing in this Commonwealth only on a visiting basis, from providing athletic training services, provided the practice of the athletic trainer is limited to the members of the team or organization.

(3) An athletic training student practicing athletic training that is coincidental to required clinical education and is within the scope of the student’s education and training.

(c) Former athletic training certificateholders certified under the Physical Therapy Practice Act (63 P. S. §§ 1301—1313) prior to July 14, 2007, are deemed certified by the Board.

(d) Athletic training certificateholders certified by the State Board of Osteopathic Medicine are deemed certified by the Board.

**§ 18.504. Application for certification.**

(a) The applicant shall submit the following on forms supplied by the Board:

(1) A completed application and the fee set forth in § 16.13 (relating to licensure, certification, examination and registration fees).

(2) Verification of professional education in athletic training in accordance with § 18.505 (relating to educational requirements).

(3) Documentation of passage of the National examination in accordance with § 18.506 (relating to examination requirement).

(4) Documentation of practice as an athletic trainer, if licensed or certified in another jurisdiction, and verification as to whether there has been disciplinary action taken in that jurisdiction.

(b) To qualify for certification, an applicant shall be at least 20 years of age and may not be addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination.

**§ 18.505. Educational requirements.**

An applicant for certification shall comply with one of the following:

(1) Be a graduate of an approved athletic training education program.

(2) Hold and maintain current credentialing as a certified athletic trainer (ATC) from the BOC or another credentialing body approved by the Board.

**§ 18.506. Examination requirement.**

An applicant for a certificate to practice as a certified athletic trainer shall submit to the Board written evidence that the applicant has passed the BOC certification examination for athletic trainers, or its equivalent as determined by the Board.

**§ 18.507. Temporary certification.**

An applicant who is a graduate of an approved athletic training education program and who has applied to take the certification examination may be granted a temporary certificate to practice athletic training under the onsite direct supervision of a certified athletic trainer. The temporary certification expires 1 year from issuance or upon certification as an athletic trainer by the Board, whichever comes first, and may not be renewed.

**§ 18.508. 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 and pay the required fee prior to the expiration of the next 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 as set forth in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225).

(e) As a condition of renewal, a certificateholder shall comply with the continuing education requirements in § 18.511 (relating to continuing education).

**§ 18.509. Practice standards for athletic trainers.**

(a) Athletic trainers certified by the Board or by the proper licensing authority of another state, province, territory or the District of Columbia shall comply with the following:

(1) Ensure that the physically active person has secured a written referral or prescription from a licensed physician, dentist or podiatrist or is subject to a written protocol for treatment by a certified athletic trainer from a licensed physician.

(2) Comply strictly with conditions or restrictions that may be placed on the course of athletic training services by the referring physician, dentist or podiatrist.

(3) Ensure that the physically active person has undergone a medical diagnostic examination or has had the results of a recently performed medical diagnostic examination reviewed by the referring physician, dentist or podiatrist.

(4) Keep a copy of the referral or prescription and the results of the medical diagnostic examination in the physically active person's file.

(5) Consult promptly with the referring physician, dentist or podiatrist regarding a new ailment or condition or a worsened ailment or condition of the physically active person.

(6) Consult with the referring physician, dentist or podiatrist upon request of either the referring physician, dentist or podiatrist or the physically active person.

(7) Refer a physically active person with conditions outside the scope of athletic training services to a licensed physician, dentist or podiatrist.

(b) Athletic trainers certified by the Board, or by the proper licensing authority of another state, province, territory or the District of Columbia who are working in a team setting, treating injuries which arise in the course of practices or team sports events, may treat the participant at the events under the conditions of the referral, or the standing written prescription or written protocol.

(c) An athletic trainer shall obtain the standing written prescription or protocol annually from the supervising physician and review it at least annually. The standing written prescription or written protocol shall be retained at or near the treatment location or facility. An individual referral or prescription from a referring physician, dentist or podiatrist is required in the absence of a standing written prescription or written protocol.

**§ 18.510. Refusal, suspension or revocation of certificate.**

(a) The Board may refuse to issue a certificate, and after notice and hearing, may suspend or revoke the certificate of a person who is subject to disciplinary action under section 41 of the act (63 P. S. § 422.41) as set forth in § 16.61 (relating to unprofessional and immoral conduct).

(b) Actions taken by the Board regarding the refusal, suspension or revocation of a certificate are taken subject to the right of notice, hearing and adjudication and appeal under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law).

**§ 18.511. Continuing education.**

(a) Beginning with the biennial period commencing on the next biennial renewal period following July 14, 2007, athletic trainers shall complete the continuing education requirements prescribed by the BOC.

(b) Applicants for renewal of a certificate shall provide a signed statement verifying that the continuing education requirement has been met.

(c) Proof of completion of the required continuing education shall be retained for at least 2 years after completion.



**CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE**

**Subchapter F. FEES**

**§ 25.231. Schedule of fees.**

An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

Application for unrestricted license to practice as osteopathic physician—original, reciprocal, boundary or by endorsement .....	\$45
Application for short-term camp license as osteopathic physician .....	\$30
Temporary training license or graduate training certificate .....	\$30
Annual renewal of temporary training license or graduate training certificate .....	\$25
Application for physician assistant certificate ....	\$30
Application for supervising physician .....	\$95
Uncertified verification of any license, certification or permit .....	\$15
Certification of any licenses, certifications, examination grades or hours .....	\$25
Application for athletic trainer certification .....	\$20
Biennial renewal—athletic trainer .....	\$37
Biennial renewal—physicians .....	\$440
Biennial renewal—physician assistants .....	\$10
Penalty for late biennial renewal—per month or part of month .....	\$5
Duplicate license or certificate .....	\$5
Application for radiology examinations .....	\$25
Application for acupuncturist registration .....	\$30
Biennial renewal—acupuncturists .....	\$25
Application for acupuncturist supervisor registration .....	\$30

**Subchapter M. ATHLETIC TRAINERS**

Sec.	Purpose.
25.701.	Definitions.
25.702.	Certification requirement.
25.703.	Application for certification.
25.704.	Educational requirements.
25.705.	Examination requirement.
25.706.	Temporary certification.
25.707.	Renewal of certificate.
25.708.	Practice standards for athletic trainers.
25.709.	Refusal, suspension or revocation of certificate.
25.710.	Continuing education.
25.711.	

**§ 25.701. Purpose.**

This subchapter implements section 7.1 of the act (63 P.S. § 271.7a) to provide for the certification of athletic trainers.

**§ 25.702. Definitions.**

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

*Approved athletic training education programs*—An athletic training education program that is accredited by a Board-approved Nationally recognized accrediting agency.

*Athletic training services*—The management and provision of care of injuries to a physically active person, with the direction of a licensed physician.

(i) The term includes the rendering of emergency care, development of injury prevention programs and providing appropriate preventative and supportive devices for the physically active person.

(ii) The term also includes the assessment, management, treatment, rehabilitation and reconditioning of the physically active person whose conditions are within the professional preparation and education of a certified athletic trainer.

(iii) The term also includes the use of modalities such as: mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage, and the use of therapeutic exercise, reconditioning exercise and fitness programs.

(iv) The term does not include surgery, invasive procedures or prescription of any medication or controlled substance.

*BOC*—The Board of Certification, Inc., a National credentialing organization for athletic trainers.

*Certified athletic trainer*—A person who is certified to perform athletic training services by the Board or the State Board of Medicine.

*Direction*—Supervision over the actions of a certified athletic trainer by means of referral by prescription to treat conditions for a physically active person from a licensed physician, dentist or podiatrist or written protocol approved by a supervising physician, except that the physical presence of the supervising physician, dentist or podiatrist is not required if the supervising physician, dentist or podiatrist is readily available for consultation by direct communication, radio, telephone, facsimile, telecommunications or by other electronic means.

*Physically active person*—An individual who participates in organized, individual or team sports, athletic games or recreational sports activities.

*Referral*—An order from a licensed physician, dentist or podiatrist to a certified athletic trainer for athletic training services. An order may be written or oral, except that an oral order must be reduced to writing within 72 hours of issuance.

*Standing written prescription*—A portion of the written protocol or a separate document from a supervising physician, which includes an order to treat approved individuals in accordance with the protocol.

*Written protocol*—A written agreement or other document developed in conjunction with one or more supervising physicians, which identifies and is signed by the supervising physician and the certified athletic trainer, describes the manner and frequency in which the certified athletic trainer regularly communicates with the supervising physician and includes standard operating procedures, developed in agreement with the supervising physician and certified athletic trainer, which the certified athletic trainer follows when not directly supervised onsite by the supervising physician.

**§ 25.703. Certification requirement.**

(a) A person may not use the title of “athletic trainer” or “certified athletic trainer” or use any abbreviation including “A.T.C.,” “C.A.T.,” or “A.T.” or any similar designation to indicate that the person is an athletic trainer unless that person has been certified by the Board.

(b) Except as otherwise provided by this subsection, a person may not perform the duties of an athletic trainer unless that person has been certified by the Board. This provision is not intended to prevent the following:

(1) A person trained and licensed or certified under any other law from engaging in the licensed or certified practice in which the person is trained.

(2) An athletic trainer from another state, province, territory or the District of Columbia, who is employed by an athletic team or organization that is competing in this Commonwealth on a visiting basis, who provides athletic training services to the members of their respective athletic team or organization.

(3) An athletic training student who practices athletic training that is incidental to required clinical education and is within the scope of the student's education and training.

(c) Former athletic training certificateholders under the Physical Therapy Practice Act (63 P. S. §§ 1301—1313) prior to July 14, 2007, are deemed certified by the Board.

(d) Athletic training certificateholders certified by the State Board of Medicine are deemed certified by the Board.

**§ 25.704. Application for certification.**

(a) The applicant shall submit the following on forms supplied by the Board:

(1) A completed application and the fee set forth in § 25.231 (relating to schedule of fees).

(2) Verification of professional education in athletic training in accordance with § 25.705 (relating to educational requirements).

(3) Documentation of passage of the National examination in accordance with § 25.706 (relating to examination requirement).

(4) Documentation of practice as an athletic trainer, if licensed or certified in another jurisdiction, and verification as to whether there has been disciplinary action taken in that jurisdiction.

(b) To qualify for certification, an applicant shall be at least 20 years of age and may not be addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination.

**§ 25.705. Educational requirements.**

An applicant for certification shall comply with one of the following:

(1) Be a graduate of an approved athletic training education program.

(2) Hold current credentialing as a Certified Athletic Trainer (ATC) from the BOC or another credentialing body approved by the Board.

**§ 25.706. Examination requirement.**

An applicant for a certificate to practice as a certified athletic trainer shall submit to the Board written evidence that the applicant has passed the BOC certification examination for athletic trainers or its equivalent, as determined by the Board.

**§ 25.707. Temporary certification.**

An applicant who is a graduate of an approved athletic training education program and who has applied to take the certification examination may be granted a temporary certificate to practice athletic training under the onsite

direct supervision of a certified athletic trainer. The temporary certification expires 1 year from issuance or upon certification as an athletic trainer by the Board, whichever comes first, and may not be renewed.

**§ 25.708. Renewal of certificate.**

(a) A certificate issued under this subchapter shall be renewed biennially. An application form will be mailed to the most recent address of the certificateholder as it appears on the records of the Board. The certificateholder shall complete the renewal application and return it to the Board with a renewal fee before December 31 of the year in which the application was received. Certificates other than temporary certificates expire on December 31 of each even-numbered year. Upon receipt of an application and renewal fee, the Board will verify the accuracy of the application and issue to the applicant a certificate of renewal for the next biennial period.

(b) 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, as set forth in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401—225).

(c) As a condition of renewal, a certificateholder shall comply with the continuing education requirements in § 25.711 (relating to continuing education).

**§ 25.709. Practice standards for athletic trainers.**

(a) Athletic trainers certified by the Board or by the proper licensing or certification authority of another state, province, territory or the District of Columbia shall comply with the following:

(1) Ensure that the physically active person has secured a written referral or prescription from a licensed physician, dentist or podiatrist or is subject to a written protocol for treatment by a certified athletic trainer from a licensed physician.

(2) Comply strictly with conditions or restrictions that may be placed on the course of athletic training services by the referring physician, dentist or podiatrist.

(3) Ensure that the physically active person has undergone a medical diagnostic examination or has had the results of a recently performed medical diagnostic examination reviewed by the referring physician, dentist or podiatrist.

(4) Keep a copy of the referral or prescription and the results of the medical diagnostic examination in the physically active person's file.

(5) Consult promptly with the referring physician, dentist or podiatrist regarding a new ailment or condition or a worsened ailment or condition of the physically active person.

(6) Consult with the referring physician, dentist or podiatrist upon request of either the referring physician, dentist or podiatrist or the physically active person.

(7) Refer a physically active person with conditions outside the scope of athletic training services to a licensed physician, dentist or podiatrist.

(b) Athletic trainers certified by the Board or by the proper licensing authority of another state, province, territory or the District of Columbia who are working in a team setting, treating injuries which arise in the course of practices or team sports events, may treat the participant at the events under the conditions of the referral, the standing written prescription or written protocol.

(c) An athletic trainer shall obtain the standing written prescription or written protocol annually from the supervising physician and review it at least annually. This standing written prescription or protocol must be in writing and retained at or near the treatment location or facility. An individual referral or prescription from a referring physician, dentist or podiatrist is required in the absence of a written protocol.

**§ 25.710. Refusal, suspension or revocation of certificate.**

(a) The Board may refuse to issue a certificate, and after notice and hearing, may suspend or revoke the certificate of a person who is subject to disciplinary action under section 15(b) of the act (63 P. S. § 271.15(b)).

(b) Actions taken by the Board regarding the refusal, suspension or revocation of a certificate are taken subject to the right of notice, hearing and adjudication and appeal under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law).

**§ 25.711. Continuing education.**

(a) Beginning with the biennial period commencing on the next biennial renewal period following July 14, 2007, athletic trainers shall complete the continuing education requirements prescribed by the BOC.

(b) Applicants for renewal of a certificate shall provide a signed statement verifying that the continuing education requirement has been met.

(c) Proof of completion of the required continuing education shall be retained for 4 years after completion.

[Pa.B. Doc. No. 07-1232. Filed for public inspection July 13, 2007, 9:00 a.m.]

**STATE BOARD OF VETERINARY MEDICINE**  
**[49 PA. CODE CH. 31]**  
**Recordkeeping**

The State Board of Veterinary Medicine (Board) amends § 31.22 (relating to recordkeeping), to read as set forth in Annex A.

**A. Effective Date**

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

**B. Statutory Authority**

Section 27.1 of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.27a) requires the Board to promulgate regulations setting forth recordkeeping standards.

**C. Background and Purpose**

The Board determined that there is a need for greater specificity in its regulations regarding veterinary medical recordkeeping. This proposed rulemaking is intended to provide more specific requirements regarding the contents of veterinary medical records; to further define acceptable standards of veterinary medical recordkeeping; and to provide notice requirements for veterinarians who are retiring or closing their veterinary practices.

**D. Summary of Comments to Proposed Rulemaking and the Board's Response**

The proposed rulemaking was published at 36 Pa.B. 5984 (September 30, 2006), which provided for 30 days of public comment. No public comments were received. The

Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review under the Regulatory Review Act (71 P. S. §§ 745.1—745.15). The following is a summary of those comments and the Board's response.

The HPLC asked whether the Board's rulemaking should include citations to Federal regulations regarding the recordkeeping responsibilities of veterinarians who provide services for production animals. Because Federal regulation of production animals and the veterinary care provided to these animals is so extensive, the Board has added a general statement to the final-form rulemaking that references 9 CFR (relating to animals and animal products). Subparts on birds, ruminants and swine are included in 9 CFR. In addition, 9 CFR includes testing and recordkeeping requirements regarding particular diseases, such as tuberculosis and scrapie.

The HPLC asked, with respect to the final sentence of § 31.22(1), which requires notation on a veterinary medical record of the treating individual after each chart entry, whether the term "individual" could be both a veterinarian and a veterinary technician and if so, if the Board would consider using the term "licensee" instead of "individual." Depending on the treatment, a veterinary medical treatment may be performed by a veterinarian, a certified veterinary technician or an unlicensed veterinary assistant. Because the term "licensee" is underinclusive, the Board determined that the term "individual" should be retained.

The HPLC made several comments regarding drafting which were corrected by the editors of the *Pennsylvania Bulletin*. The Board agrees with the subtitles added by the editors to § 31.22(4) and (5). The Board also agrees with the editors regarding the use of numbered paragraphs rather than alphabetized subsections.

The HPLC noted that the Board used the term "patient" and "animal" in various parts of the rulemaking and inquired whether one term should be used consistently. The Board amended the final-form rulemaking to use the term "patient" throughout.

Finally, the HPLC questioned § 31.32(10), noting that the first sentence established a bright line rule that notice must be given to clients at least 30 days in advance of a planned retirement or closing of a veterinary facility but that the last sentence stated that if prior notice was not possible, the successor veterinarian was required to provide notice. The HPLC asked the Board to provide guidance regarding: (1) when the 30-day notice is not required; and (2) under what circumstances the successor veterinarian will have to provide notice.

The 30-day notice is always required for planned events, such as retirement or the closing of a veterinary practice. However, the 30-day notice would not be required when it is not possible, such as in the case of an unplanned closure due to acute illness or death of a veterinarian. A veterinarian who does not provide at least 30 days advance notice when advance notice was possible would be subject to discipline under section 21(1) of the act (63 P. S. § 485.21(1)) for willful violation of a Board regulation. The successor veterinarian is required to provide notice whenever prior notice was not provided.

IRRC submitted comments to the Board on November 29, 2006. IRRC noted three concerns. First, IRRC also commented that the Board appeared to use the terms "patient" and "animal" interchangeably throughout the rulemaking and recommended that one term be used consistently. This concern has been addressed.

Second, IRRC asked for further clarification of a "problem-oriented medical record" and specifically inquired what methods are acceptable to the Board. A problem-oriented medical record is acceptable to the Board. Recordkeeping systems with different nomenclature that include record of subjective and objective assessment, treatment plan and documentation of treatment provided will be acceptable to the Board.

Finally, IRRC agreed with the HPLC comments regarding citation to Federal regulations regarding veterinary medical recordkeeping for production animals and recommended a cross reference be added to the Board's rulemaking. The Board has added the requested information.

*E. Fiscal Impact*

The Board believes that the final-form rulemaking should have little or no fiscal impact on licensees as the regulation represents what is already the acceptable and prevailing standard of practice with regard to veterinary medical recordkeeping. Veterinarians who are not practicing in accordance with recognized standards may experience some costs in conforming their recordkeeping to the requirements in the regulation. The Board may experience some costs in prosecuting veterinarians whose recordkeeping does not conform to the regulation. There are no costs to other political subdivisions as the Board is self-supporting.

*F. Paperwork Requirements*

Veterinarians who are not practicing in accordance with recognized standards may experience additional paperwork requirements to practice in accordance with the regulation. Neither the Board nor political subdivisions will experience additional paperwork requirements as a result of the final-form rulemaking.

*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 20, 2006, the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 5984, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (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 May 23, 2007, the final-form rulemaking was approved by the HPLC. On June 6, 2007, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 7, 2007, and approved the final-form rulemaking.

*I. Additional Information*

Further information may be obtained by contacting J. Robert Kline, Administrative Assistant, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, or from the Department website, www.dos.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 is necessary and appropriate for administering and enforcing the authorizing act identified in this Preamble.

*K. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 31, are amended by amending § 31.22 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 upon publication in the *Pennsylvania Bulletin*.

THOMAS J. MCGRATH, D.V.M.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2909 (June 23, 2007).)*

**Fiscal Note:** Fiscal Note 16A-5719 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE**

**PROFESSIONAL CONDUCT**

**§ 31.22. Recordkeeping.**

Veterinary medical records serve as a basis for planning patient care and as a means of communicating among members of the veterinary practice. The records furnish documentary evidence of the patient's illness, hospital care and treatment and serve as a basis for review, study and evaluation of the care and treatment rendered by the veterinarian. A veterinary medical record shall be kept in a problem-oriented or similar format that allows any veterinarian, by reading the record, to proceed with the care and treatment of the patient and allow the Board or other agency to determine the advice and treatment recommended and performed. This section does not apply to laboratory animal practice.

(1) *Record required.* A veterinarian shall maintain a separate veterinary medical record for each patient, herd or group, as appropriate, which accurately, legibly and completely reflects the evaluation and treatment of the patient or patients. The veterinary medical record must identify the treating individual after each chart entry.

(2) *Identity of patient.* The veterinary medical record must include, at a minimum, the following information to identify the patient, herd or group:

- (i) Client identification.
- (ii) Appropriate patient identification, which may include species, breed, age, sex, weight, name or identity number or numbers, color and identifying markings, and whether neutered, spayed or intact.
- (3) *Minimum content of record.* Production animal veterinarians shall comply with all Federal recordkeeping requirements, including requirements in 9 CFR (relating to animals and animal products). Veterinary medical records for other animals must include:
  - (i) Vaccination history.
  - (ii) Previous medical history, presenting symptoms and complaint.
  - (iii) Date of each examination.
  - (iv) Diagnosis.
  - (v) Results and findings of pathological or clinical laboratory examination.
  - (vi) Findings of radiological examination.
  - (vii) Medical or surgical treatment.
  - (viii) Other diagnostic, corrective or therapeutic procedures.
  - (ix) Documentation of drugs administered, prescribed or dispensed, including dosage.
  - (x) Documentation of surgical and dental procedures, including type and dosage of anesthesia, and dental charting.

(4) *Communication with client.* The veterinary medical record of any patient, except a production animal, must document communication with the client, including the client's consent to or rejection of recommended diagnostic tests, treatments and drugs.

(5) *Retention of records.* Records shall be maintained for a minimum of 3 years from the date that the patient was last treated by the veterinarian.

(6) *Ownership and use of records.* The records of a veterinary practice are the sole property of that facility, and when a veterinarian leaves salaried employment therein, the departing veterinarian may not copy, remove or make subsequent use of the records, without the consent of the owner of the veterinary practice.

(7) *Radiographs.* A radiograph is the property of the veterinary practice that originally ordered it to be prepared. Radiographs shall be properly identified by hospital name, date, name of client, name of patient and positional marker. A radiograph shall be released upon the written request of another veterinarian who has the written authorization of the client. The radiograph shall be returned to the veterinary practice that originally ordered it to be prepared within a reasonable time.

(8) *Release of information to clients.* A veterinarian shall release a summary or a copy of the veterinary medical records of a patient to the client within 3 business days of receipt of the client's written request. A veterinarian may charge a reasonable fee for duplicating veterinary medical records and for preparation of veterinary medical record file summaries for release to clients. A veterinarian may not withhold the release of veterinary medical records or summaries to clients for nonpayment of a professional fee. The release of veterinary medical records or summaries to clients under these circumstances does not constitute a waiver by the veterinarian of the fee claimed.

(9) *Veterinary medical records for vaccination clinics.* A veterinarian providing veterinary medical services to the public for a public health vaccination clinic or an animal health vaccination clinic shall prepare a veterinary medical record that includes, at a minimum, an identification of the client and patient, the vaccine lot number, and the date and dosage administered. A veterinarian who provides veterinary medical services to a vaccination clinic shall provide a means for clients to obtain advice pertaining to postvaccine reactions for the 24-hour period immediately following the time of vaccination.

(10) *Veterinary records of retiring veterinarian or a veterinary practice that is closing.* A veterinarian shall notify clients, in writing, at least 30 days prior to the date of a planned retirement or closing of a veterinary practice. The written notice must include instructions on how to obtain copies of veterinary medical records from the veterinarian or other custodian of the records and the name, address and telephone number of the person purchasing the practice, if applicable. Veterinary medical records must remain available to clients for 3 years after the date the veterinarian retires or the practice is closed. If prior notice could not be provided, a successor veterinarian shall notify clients within 60 days of the date the successor takes over the practice.

[Pa.B. Doc. No. 07-1233. Filed for public inspection July 13, 2007, 9:00 a.m.]

## Title 67—TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION

#### [67 PA. CODE CH. 173]

### Flashing or Revolving Lights on Emergency and Authorized Vehicles

The Department of Transportation (Department), under 75 Pa.C.S. §§ 4571, 4572 and 6103 (relating to visual and audible signals on emergency vehicles; visual signals on authorized vehicles; and promulgation of rules and regulations by department), amends Chapter 173 to read as set forth in Annex A.

#### *Purpose of Chapter*

This final-form rulemaking provides the limitations and requirements for flashing and revolving lighting on emergency and authorized vehicles. The purpose of Chapter 173 is to set forth the nature, display, color, standards and configuration for flashing, revolving and oscillating lights that may be displayed on emergency and authorized vehicles.

*Purpose of the Final-Form Rulemaking*

The purpose of this final-form rulemaking is to provide greater flexibility and lighting options to ensure that emergency and authorized vehicles have adequate flashing or revolving lights. The final-form rulemaking allows the use of flashing and revolving lights which were not envisioned or available at the time the regulations were originally adopted. The final-form rulemaking also clarifies the flashing or revolving lighting options and requirements for an unmarked police car.

The final-form rulemaking reflects the joint effort of the State Police and the Department. The State Police also solicited advice and recommendations from local police departments and other law enforcement officials throughout this Commonwealth as well as members of the emergency lighting industry.

*Summary of Comments and Responses**§ 173.2. Definitions.*

*Comment:* The Independent Regulatory Review Commission (IRRC) found the definition of "intersection light" unnecessary and too broad.

*Response:* The Department considered IRRC's comments and amended the definition for clarity. The Department believes the definition remains necessary as the term continues to be used in the regulations to refer to lights mounted on the fenders of emergency vehicles which enhance the visibility of emergency vehicles as they pass through an intersection.

*Comment:* IRRC expressed confusion about the use of the terms "flashing light" and "oscillation."

*Response:* The Department deleted the definition of "oscillation," added a definition of "oscillating light" and removed "oscillation" from the definition of "flashing light."

*§ 173.3(a). Display requirements.**Subsection (a)—color*

*Comment:* A retired police officer, Michael DalPezzo, noted that there is no authorization for green lights designating command vehicles. He also opined that it is impossible to "exceed" standards for chromaticity coordinates.

*Response:* There is no need for a particular vehicle to display green lights. Although flashing green lights are used to designate command areas, they are not specific to particular command vehicles. Under the Incident Command System, multiple agency response could potentially bring multiple vehicles equipped with green lights to an incident scene, causing confusion among responders as to where a command center was located. Further, a portable green light could be maintained in a vehicle and used as necessary at the scene of an emergency.

With respect to the observation that it is impossible to exceed standards for chromaticity coordinates, it is important to note that the CIE 1931 standard was devised in 1931 using wavelengths of light that were perceived as specific colors by persons with normal visual acuity. The standard has been revised twice. Consequently, this language is intended to take into consideration any future revisions to the CIE 1931 standard.

*Subsection (a)(3)—blue lights*

*Comment:* The City of Philadelphia Fire Department opined that personnel of for-profit ambulance services should not be authorized to use emergency lighting. IRRC questioned whether personnel from those services are

eligible to use blue lights and asked who is the "chief" of a private company. IRRC and the Pennsylvania Emergency Health Services Council (PEHSC) asked whether "quick responder services" personnel can use blue lights and asked the Department to clarify the types of organizations that allow blue lights on personal vehicles.

*Response:* The personnel of ambulance services are entitled to use blue lights on their personal vehicles in accordance with 75 Pa.C.S. § 4572. Under section 12 of the Emergency Medical Services Act (35 P.S. § 6932), ambulances in this Commonwealth must be licensed by the Department of Health whether they are for profit or not. The license requirements in 28 Pa. Code Chapter 1005 (relating to licensing of BLS and ALS ground ambulance services) require emergency lighting on all basic life support ambulances in conformance with 75 Pa.C.S. §§ 4571 and 4572. Therefore, the status of the agency as "for profit," volunteer or municipally employed is moot. In addition, quick responder vehicles are covered by the definition of "ambulance" in 75 Pa.C.S. § 102 (relating to definitions) and should display red lights or a combination of red and white lights.

*Subsection (a)(4)—combination red and blue lights*

*Comment:* The Chiefs of Police Association commented that only police officers should be allowed to use a combination of red and blue lights.

*Response:* The authority for using combination red and blue lights is granted in 75 Pa.C.S. § 4571(b)(1) and extends to police, sheriff, coroner, medical examiner and fire police vehicles. The regulation cannot establish a narrower scope contrary to 75 Pa.C.S. § 4571(b)(1).

*Subsection (a)(5)(iii)—yellow or amber lights*

*Comment:* IRRC commented that § 173.3(a)(5)(iii) should be simplified to state that these lights "shall be mounted to only flash or shine rearward." Mr. DalPezzo recommended allowing fire police officers to use traffic control emergency light assemblies.

*Response:* The Department considered and rejected Mr. DalPezzo's suggestion. Under 75 Pa.C.S. § 4571(b.1)(2), the use of traffic-control emergency directional light assemblies is limited to emergency vehicles. Privately-owned vehicles of fire police officers are not emergency vehicles and are regulated by 75 Pa.C.S. § 4572. Therefore, those vehicles are not entitled to use traffic-control emergency directional light assemblies. However, fire police vehicles that are owned by a fire company are entitled to use combination red and blue lights as well as traffic-control emergency directional light assemblies. In response to IRRC's comments, the Department amended the language of subsection (a)(5)(iii).

*Subsection (a)(6)—white or clear lights*

*Comment:* The PEHSC asked about the rationale for increasing the number of white or flashing lights. The City of Philadelphia Fire Department and IRRC asked the Department to clarify whether a vehicle can have a total of four white or clear lights by combining a single light with a light-bar assembly. IRRC expressed three additional concerns about this section. First, the Department should clarify the need for and intent of the subsection and whether a light created from reflection by mirrors is counted as a separate and unique light. Second, subparagraphs (i) and (ii) may conflict with existing systems and procedures. Third, the phrase "pre-emptive traffic control devices" is not defined. Finally, Mr. DalPezzo opined that the restrictions in this section are unworkable and unenforceable.

*Response:* The Department considered the comments received concerning this section and made revisions to clarify the section. The three white lights can only be used as part of a light bar assembly. In some light bar configurations, two white lights are used as intersection lights mounted on the outboard sides of the light bar. An optional third white light was added to allow for a forward-facing center-mounted light for the purpose of signaling traffic directly in front of an emergency vehicle. The Department has not included a definition of "preemptive traffic control device" insofar as the term seems self-explanatory to mean a device which allows operators of emergency vehicles to preempt the operation of a traffic signal in accordance with 75 Pa.C.S. § 3105(g) (relating to drivers of emergency vehicles).

*Subsection (a)(8)—utility lights*

*Comment:* IRRC and Mr. DalPezzo found this section unclear and confusing.

*Response:* The Department revised the language of this subsection for clarification.

*Subsection (b)—360° visibility*

*Comment:* IRRC recommended reformatting this section for clarity.

*Response:* The Department accepted IRRC's suggestion and reformatted this subsection.

*Comment:* The PEHSC recommended that front bumper-mounted lights should only be red.

*Response:* The Department considered and rejected the PEHSC's suggestion to give emergency vehicles, other than ambulances, the option of using lights of other colors. Under 28 Pa. Code § 1005.10(b)(1) (relating to licensure and general operating standards), emergency lights on ambulances must conform to Federal standard KKK-A-1822E, which requires that front bumper-mounted lighting be red. Therefore, ambulances will not be affected by this change.

*Subsection (c)—visibility of unmarked police vehicles*

The Pennsylvania State Association of Township Supervisors submitted a comment outside the public comment period regarding the provisions of this section. The comment misinterprets the section to limit the placement of lights on unmarked vehicles to those described in the section. The section does not prohibit the addition of other lights on unmarked vehicles as township or law enforcement official may see fit.

*Subsection (d)—mounting location*

*Comment:* Mr. DalPezzo suggested adding subsection (d)(5) to address the mounting of blue lights on authorized vehicles. IRRC noted that subsection (d)(1)(v)(A) refers to "private vehicles" and "emergency calls" as defined by 75 Pa.C.S. § 102, but those are not separately-defined terms in 75 Pa.C.S. § 102. Mr. DalPezzo also found this section confusing. IRRC asked the Department to reformat subsection (d)(3)(i)(E)(i)—(iv) to conform to *Pennsylvania Code and Bulletin Style Manual*. With respect to subsection (d)(3)(ii), the Pennsylvania Chiefs of Police Association said that law enforcement should be able to put strobe packs inside corner parking lamps, break lamps or inside back-up lamps and the proposed rulemaking should permit the use of flash back-up white lamps in conjunction with flashing red tail lamps. Finally, IRRC was unclear as to the intent of the restrictions in subsection (d)(4).

*Response:* In consideration of these comments, subsection (d) was reformatted and amended for clarification. The Department considered and rejected Mr. DalPezzo's suggestion of adding subsection (d)(5) to address mounting of blue lights. The mounting of lights is already addressed in subsection (e)(3), which applies to authorized vehicles regardless of the color of the light. With respect to the concern expressed by the Pennsylvania Chiefs of Police Association, police vehicles are entitled to use strobe packs at the listed locations on a vehicle in accordance with subsection (d)(2)(vii).

*Statutory Authority*

The regulations are amended under the authority in 75 Pa.C.S. §§ 4571, 4572 and 6103.

*Persons and Entities Affected*

The final-form rulemaking affects owners of emergency and authorized vehicles who are qualified to display flashing or revolving lights.

*Fiscal Impact*

Implementation of the final-form rulemaking will not require the expenditure of additional funds by the Commonwealth or local municipalities. The final-form rulemaking will not impose additional costs on the regulated community and may reduce costs by providing more lighting options for emergency and authorized vehicles.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 6, 2005, the Department submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 6769 (December 17, 2005), to IRRC and the Chairpersons of the House and Senate Transportation Committees 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 June 6, 2007, 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 June 7, 2007, and approved the final-form rulemaking.

*Sunset Provisions*

This final-form rulemaking is effective upon publication following appropriate evaluation of comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required under 75 Pa.C.S. (relating to Vehicle Code). The Department, however, will continue to closely monitor the regulations for their effectiveness.

*Contact Person*

The contact person for technical questions about the final-form rulemaking is Lawrence Allen, Equipment Division, 17th and Arsenal Boulevard, Harrisburg, PA 17120, (717) 787-2123.

*Order*

The Department of Transportation orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 173, are amended by amending §§ 173.1—173.4 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 legality and form, as required by law.

(c) The Secretary 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*.

ALLEN D. BIEHLER, P. E.,  
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2909 (June 23, 2007).)

**Fiscal Note:** Fiscal Note 18-404 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**Subpart A. VEHICLE CODE PROVISIONS**

**ARTICLE VII. VEHICLE CHARACTERISTICS**

**CHAPTER 173. FLASHING OR REVOLVING LIGHTS ON EMERGENCY AND AUTHORIZED VEHICLES**

**§ 173.1. Purpose.**

This chapter pertains to the nature, display, color, minimum performance standards and configuration of flashing, oscillating or revolving lights that are permissible for display by emergency and authorized vehicles.

**§ 173.2. Definitions.**

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

*Authorized vehicle*—The term as defined in 75 Pa.C.S. § 102 (relating to definitions).

*Emergency vehicle*—The term as defined in 75 Pa.C.S. § 102.

*Flash*—An intermittent burst of light.

*Flash rate*—The rate of flash, revolution or oscillation per minute of a single light, when that light is observed from a fixed position.

*Flashing headlamp system*—A system designed to automatically flash the high intensity—high beam—portion of the headlamps of a vehicle in either an alternate or simultaneous flash. The system shall be designed so that activation of the high intensity—high beam—portion of the standard headlamp system overrides the flashing headlamp system.

*Flashing light*—A light designed to flash by current interruption, or by other means providing an intermittent change in intensity when the light is observed from a fixed position.

*Hazard warning system*—Driver-controlled flashing front and rear lights used to warn approaching motorists when a vehicle is broken down or is traveling at a slow speed.

*Intersection light*—A flashing red, blue, white, or clear light used as part of a flashing, oscillating, or revolving light system to enhance the visibility of an emergency vehicle from the front and side as it approaches or travels through an intersection.

*Light activation indicator*—An audible signal or an illuminated switch or pilot light which provides the driver of an emergency or authorized vehicle with a clearly audible or visible and continual indicator that a flashing or revolving light, flashing headlamp system, traffic control emergency directional light or authorized nonflashing or nonrevolving light is activated.

*Light-bar assembly*—A device or devices designed and constructed to provide and display more than one steady burning, flashing, oscillating or revolving light.

*Oscillating light*—A light designed to flash by movement back and forth between two or more points, including the alternation between the maximum and minimum voltage.

*Revolving light*—A light designed to give the appearance of flashing by its rotation around a fixed axis through a 360° arc, on a horizontal plane.

*Single light*—A device containing one or more lenses, lamps or bulbs which are designed to produce, when viewed from a fixed position or point, the appearance of one flashing or revolving beam of light.

*Traffic control emergency directional light assembly*—A device electronically designed to display amber or yellow warning signal lights in a distinctive motion-lighting pattern—arrow left, arrow right, center out or alternately flashing—to warn motorists that they are approaching a hazard or to direct them around an impending hazard.

*Unmarked police vehicle*—A police vehicle not equipped with a roof-mounted light-bar assembly. The vehicle may display graphics, markings or decals, identifying the agency or department.

**§ 173.3. Display requirements.**

(a) *Color.* White, clear, red, blue, amber or yellow are the only colors permitted for use in flashing or revolving lights.

(1) *Chromaticity coordinates.* A flashing, revolving or oscillating light must meet or exceed the Chromaticity Coordinates, CIE 1931, Standard Colorimetric System as provided in SAE Standard J578d, Color Specification for Electrical Signal Lighting Devices, September 1978 or subsequent SAE Standards. This requirement does not apply to flashing headlamp systems.

(2) *Red lights.* A vehicle may display red lights as provided by 75 Pa.C.S. § 4571 (relating to visual and audible signals on emergency vehicles).

(3) *Blue lights.* A vehicle may display blue lights as provided for by 75 Pa.C.S. § 4572(a) (relating to visual signals on authorized vehicles). Vehicles described in 75 Pa.C.S. § 4572(a) may be equipped with a light-bar assembly using only blue lights. See Figure 3.1.

(4) *Combination red-and-blue lights.* Vehicles listed under 75 Pa.C.S. § 4571(b) may display combination red-and-blue lights. The privately-owned vehicles defined as an emergency vehicle under 75 Pa.C.S. § 102 (relating to definitions) must be equipped under 75 Pa.C.S. § 4571(a).

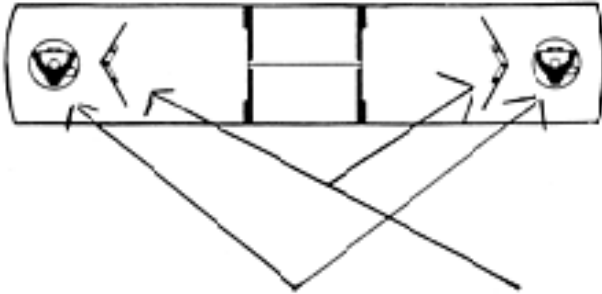


(5) *Yellow or amber lights.* A vehicle may display yellow or amber lights as follows:

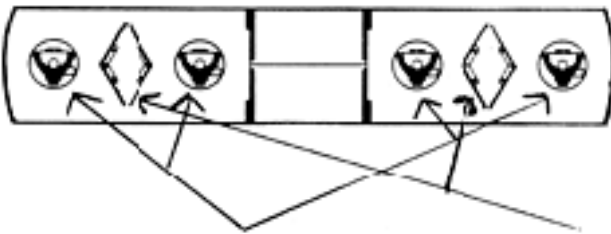
(i) Under 75 Pa.C.S. § 4572(b), an authorized vehicle as defined in 75 Pa.C.S. § 102 and designated in Chapter 15 (relating to authorized vehicles and special operating privileges) may be equipped with flashing or revolving yellow or amber lights or one or more light-bar assemblies containing only yellow or amber lights. See Figure 3.1.

**FIGURE 3.1**

**ILLUSTRATIONS OF LIGHT-BAR ASSEMBLIES \***



Rotating halogen lamps—"V" mirrors  
(contains two single lights)



Rotating halogen lamps—"diamond" mirrors  
(contains four single lights)

\* THESE ILLUSTRATIONS REPRESENT TWO COMMON MODELS OF LIGHT-BAR ASSEMBLIES. OTHER LIGHT-BAR ASSEMBLIES MAY BE USED.

(ii) An authorized vehicle which is used in the construction, repair or maintenance of a bridge or highway maybe equipped with traffic control emergency directional light assemblies.

(iii) Emergency vehicles may be equipped with yellow or amber lights, in addition to traffic control emergency directional light assemblies. The yellow or amber lights shall be mounted on the rear of the vehicle or face rearward so that they are visible from behind the vehicle.

(6) *White or clear lights.* In addition to flashing or revolving red or combination red-and-blue lights, an emergency vehicle may be equipped with a flashing headlamp system and no more than one flashing, revolving or oscillating white or clear light, or with a light-bar assembly containing no more than three flashing, revolving or oscillating white or clear lights. The vehicle may also be equipped with additional preemptive traffic control devices.

(i) When the light-bar assembly contains three flashing, revolving or oscillating white or clear lights, the center light must be mounted to flash white or clear light only to the front.

(ii) When the vehicle is stationary, the light-bar assembly may not display white or clear light to the rear.

(iii) Flashing, revolving or oscillating white or clear lights and flashing headlamp systems may only be used in conjunction with the flashing or revolving red or combination red-and-blue lights. Flashing, revolving or oscillating white or clear lights and flashing headlamp systems that are not used in conjunction with flashing or revolving red or combination red-and-blue lights do not constitute visual signals under 75 Pa.C.S. §§ 3325 and 4571 (relating to duty of driver on approach of emergency vehicle; and visual and audible signals on emergency vehicles).

(7) *Steady burning lights.* Red, blue, amber or yellow nonflashing or nonrevolving lights—steady burning lights—may be used in conjunction with flashing or revolving lights.

(8) *Utility lights.* Clear or white forward or side facing steady burning utility lights (that is, take down, alley, spotlight) may not be used as a visual signal for purposes of 75 Pa.C.S. § 3325. These lights may be used while the vehicle is in motion or stationary for the purpose of an emergency, for the safety of the public, or in the enforcement of the law.

(9) *Other lights.* A vehicle, other than those identified in this chapter, may not be equipped with lights or systems identical or similar to those specified by this subsection, except that school buses and urban mass transit buses which will be used for carrying school children may be equipped with flashing lights as permitted by 75 Pa.C.S. §§ 4552(b) and 4553(a) (relating to general requirements for school buses; and general requirements for other vehicles transporting school children), and Chapters 15 and 171 (relating to school buses; and school vehicles).

(10) *Hazard warning systems and turn signals.* Hazard warning systems and turn signals are not considered flashing lights for the purposes of this chapter.

(b) *360° visibility.* Except for unmarked police vehicles, when flashing or revolving red, blue, yellow or amber lights are mounted on a vehicle, one or more of these lights shall be mounted to provide visibility to vehicles approaching from any direction (360° visibility), regardless of the method of mounting.

(1) When only one light is used to provide 360° visibility, this light must be in compliance with SAE Standard J845, 360° Emergency Warning Lamps, May 1997, or subsequent SAE Standards.

(2) When more than one light is used to provide 360° visibility, the number of lights used may not exceed those specified in 75 Pa.C.S. §§ 4571 and 4572.

(c) *Visibility for unmarked police vehicles.* When the combination of lights are mounted on an unmarked police vehicle, these lights shall be mounted to provide visibility to vehicles approaching from the front and rear, regardless of the method of mounting.

(d) *Flash rate.* The flash rate, when observed from a fixed position, must be between 60 and 260 flashes per minute. When the flash rate is produced by the interruption of current, the period of illumination must be long enough to permit the bulb to come to full brightness.

(e) *Mounting location.* The following applies to mounting locations for flashing or revolving lights:

(1) *Emergency vehicles, except police vehicles.* Flashing or revolving lights, excluding flashing headlamp systems, may be permanently mounted on the vehicle or attached to a mounting device, in a workmanlike manner, in the following locations only:

- (i) On a cab or roof of the vehicle.
- (ii) No more than 18 inches above the highest fixed point of the vehicle.
- (iii) Behind, in front of, or on the grille of emergency vehicles. A flashing light may be mounted so as to flash through or in front of the grille on emergency vehicles when the vehicle is also equipped with one or more flashing or revolving red lights that meet the 360° visibility requirements of subsection (b).

(iv) With respect to fender intersection lights, close to the front upper edge of each front fender of an emergency vehicle and not protruding more than 2 inches from the fender.

(v) Inside of existing vehicular lighting modules/assemblies, such as headlights, parking lights, taillights. This does not include reverse lights.

(A) This subsection does not apply to privately owned vehicles that otherwise qualify as emergency vehicles as defined in 75 Pa.C.S. § 102.

(B) Vehicles mounting lights as outlined in this subsection must also mount, in another location, flashing or revolving lights that meet the 360° visibility requirements. This does not include reverse lights.

(2) *Police vehicles.* Flashing or revolving lights may be permanently mounted on the vehicle or attached to a mounting device, in a workmanlike manner, in the following locations only:

- (i) On a cab or roof of the vehicle.
- (ii) No more than 18 inches above the highest fixed point of the vehicle.
- (iii) With respect to combination red-and-blue lights only, behind, in front of, or on the grille. Police vehicles mounting lights as outlined in this subsection must also mount flashing or revolving lights in another location visible from the front of the vehicle.

(iv) Inside the passenger compartment, clearly visible through the front windshield. (See original equipment manufacturer for mounting locations.)

(v) Inside the passenger compartment, clearly visible through the rear window.

(vi) In or on the trunk lid.

(vii) Inside of existing vehicular lighting modules/assemblies, such as headlights, parking lights, taillights (not including reverse lights). Police vehicles mounting

lights as outlined in this subsection must also mount, in another location, flashing or revolving lights visible from the front and rear of the vehicle.

(viii) With respect to flashing lights only, within the nondriver's compartment-side window.

(ix) With respect to combination red-and-blue lights, in a location visible from the front and rear of the vehicle.

(x) With respect to fender intersection lights, close to the front upper edge of each front fender of a police vehicle and not protruding more than 2 inches from the fender.

(xi) With respect to motorcycles, at a location in accordance with the manufacturer's specifications.

(3) *Authorized vehicles.*

(i) Flashing or revolving lights may be permanently mounted on the vehicle or attached to a mounting device, in the following locations only:

- (A) On a cab, cab protector or roof of the vehicle.
- (B) No more than 18 inches above the highest fixed point of the vehicle.
- (C) On the front or rear of the bed or body of an authorized vehicle.
- (D) On the tailgate of an authorized vehicle.

(E) In a location other than as set forth in clauses (A)—(D) as needed to comply with the 360° requirement in subsection (b).

(ii) The installation or use of additional flashing or strobe lights in existing vehicular lighting modules/assemblies, such as headlights, parking lights, taillights, is expressly prohibited.

(4) *Traffic control emergency directional light assemblies.* Traffic control emergency directional light assemblies may not interfere with permanently installed lights. These assemblies may be permanently mounted on the vehicle or attached to a mounting device, in a workmanlike manner, in a location visible to approaching traffic.

(e) *Mounting devices.* Flashing or revolving lights, excluding flashing headlamp systems, grille-mounted flashing lights and intersection lights, may be mounted on one of the following devices:

- (1) A magnetic base.
- (2) A roof rack, light-bar or other device that is welded or bolted onto the vehicle, or is mounted on the vehicle by using suction cups equipped with nylon or steel straps and clips which hook onto the drip rail or molding.
- (3) A self-leveling gimbal device.
- (4) Grommet mounting is acceptable for flush mounted flashing lights.

**§ 173.4. Wiring.**

Wiring shall be installed using the industry's best practices.

(1) Wiring must be primary SAE rated and be of proper gauge to handle applied load. Ground wiring must be of equal gauge.

(2) Wiring may not be loaded to more than 80% of its rated capacity.

(3) The wiring must be permanently installed and routed through the vehicle in a manner to avoid short circuits or interfering with the operation of the vehicle.

(4) Grommets shall be used when wires pass through bulkheads and other sharp metal surfaces.

(5) Each accessory will be protected with the proper circuit protection as recommended by the manufacturer (that is, fuses or circuit breakers). The main circuit protection will be as close to the power source as possible.

(6) Additional wiring installed for emergency equipment may not impede or compromise the original equipment manufacturer circuits or original equipment manufacturer equipment functions as intended by the vehicle manufacturer.

(7) Tapping power off of original equipment manufacturer circuits, such as in fuse blocks, must be only as recommended by the vehicle manufacturer. Tapping power off air bag or ABS brake and brake light circuits is prohibited.

(8) These requirements do not apply to flashing or revolving lights that are attached to a vehicle with a magnetic base.

[Pa.B. Doc. No. 07-1234. Filed for public inspection July 13, 2007, 9:00 a.m.]