

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[ 67 PA. CODE CH. 83 ]

### Physical and Mental Criteria, Including Vision Standards Relating to the Licensing of Drivers

The Department of Transportation (Department), under the authority contained in 75 Pa.C.S. §§ 1517, 1518 and 6103 (relating to Medical Advisory Board; reports on mental or physical disabilities or disorders; and promulgation of rules and regulations by department), proposes to amend §§ 83.1, 83.2 and 83.5 (relating to purpose; definitions; and other physical and medical standards).

#### *Purpose of Chapter*

Chapter 83 (relating to physical and mental criteria, including vision standards relating to the licensing of drivers) sets forth physical and mental criteria, including vision standards, for the licensing of drivers, formulated by the Medical Advisory Board (Board) under 75 Pa.C.S. §§ 1517 and 1518. In addition to their use by the Department in connection with its responsibilities under the Vehicle Code, these physical and mental criteria are to be used by medical providers in conducting physical examinations of applicants for learner permits and driver licenses, and by physicians and other persons authorized to diagnose and treat disorders and disabilities covered in Chapter 83 to determine whether a person should be reported to the Department as having a disorder affecting the ability of the person to drive safely.

#### *Purpose of the Proposed Amendments*

The purpose of these amendments to Chapter 83 is to update the medical requirements and standards for license holders that are being treated for diabetes mellitus. Diabetes management and testing continues to evolve. These proposed amendments update minimum standards to ensure that only drivers who are not at risk of suffering from severe hypoglycemia reactions, hypoglycemia unawareness or symptomatic hyperglycemia are licensed to operate a motor vehicle.

These proposed amendments reflect consultation with the Department's Board as required by 75 Pa.C.S. §§ 1517 and 1518. The Board, after having conducted in-depth reviews and discussions, has determined that regulations require amendment to make them consistent with existing medical practice and improved technology.

#### *Summary of Significant Amendments*

The proposed amendment to § 83.1 add chiropractors to the list of individuals that are permitted to administer the physical examination required for the issuance of a driver's license, as required by Act 756 of 2004.

Section 83.2 has been amended to add the term "chiropractor" to the regulation as required by 75 Pa.C.S. § 1508.1(a) (relating to physical examinations) and also to correct the term "CRNP—Certified registered nurse practitioner." This certification is obtained solely by the State Board of Nursing; the State Board of Medicine is no longer involved.

The proposed amendments also add the terms "HbA1C," "hyperglycemia," "hypoglycemia," "symptomatic hyperglycemia," "Type I Diabetes mellitus" and "Type II

Diabetes mellitus." In addition, "hypoglycemia reactions" has been categorized by different degrees of severity. These additions reflect current guidelines established by the American Diabetes Association.

A proposed amendment to § 83.2 has been amended to include the categories of hypoglycemic reactions established by the American Diabetes Association. This section also is amended to add the requirement for drivers to submit the results of an HbA1C and a vision screening.

In addition, the proposed amendments add a waiver provision for individuals who have experienced an episode that would disqualify them from driving if the episode was as a result of a nonrecurring transient illness, toxic ingestion or metabolic imbalance as long as the treating physician verifies that it is a temporary condition or isolated incident not likely to recur.

#### *Persons and Entities Affected*

The proposed amendments affect all persons qualified or desiring to be qualified to drive and health care providers.

#### *Fiscal Impact*

Implementation of these proposed amendments will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These proposed amendments will not impose any additional costs on the medical community and may reduce costs by providing clearer medical criteria and thus reduce unnecessary reporting by physicians and the need for follow-up medical examinations for drivers. The proposed amendments do not impose any additional medical examinations that are not customary for diabetic care.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed amendments, on June 18, 2008, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees (Committees). In addition to submitting the proposals, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed amendments within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final-form publication of the regulations, by the Department, the General Assembly and the Governor of comments recommendation, or objections.

#### *Sunset Provisions*

The Department will make this rulemaking effective upon publication in final-form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for this proposed rulemaking, since proposed rulemaking is needed to administer provisions required under the Vehicle Code. The Department, however, will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to the regulations to Janet L. Dolan, Director, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676 within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed amendments to the regulations is Scott Shenk, Manager, Driver Safety Division, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676, (717) 783-5958.

ALLEN D. BIEHLER, P. E.,  
Secretary

**Fiscal Note:** 18-411. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 83. PHYSICAL AND MENTAL CRITERIA, INCLUDING VISION STANDARDS RELATING TO THE LICENSING OF DRIVERS

§ 83.1. Purpose.

Section 1517(b) of the act (relating to medical advisory board) authorizes the Department to adopt physical and mental criteria, including vision standards, for licensing of drivers under Chapter 15 of the act (relating to licensing of drivers). These physical and mental criteria have been formulated by the Medical Advisory Board under the authority of sections 1517 and 1518 of the act (relating to medical advisory board and reports on mental or physical disabilities or disorders). In addition to their use by the Department in connection with its responsibilities under Chapter 15 of the act, these physical and mental criteria shall be used by physicians, **chiropractors**, CRNPs and physician assistants in conducting physical examinations of applicants for learner's permits and driver's licenses and by physicians and other persons authorized to diagnose and treat disorders and disabilities covered in this chapter in determining whether a person examined by the provider should be reported to the Department as having a disorder affecting the ability of the person to drive safely.

§ 83.2. Definitions.

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

\* \* \* \* \*

**CRNP—Certified registered nurse practitioner**—A registered nurse licensed in this Commonwealth who is certified [ , ] by [ **both** ] the State Board of Nursing [ **and the State Board of Medicine,** ] in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of

medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

**Chiropractor**—A practitioner of chiropractic as defined in 75 Pa.C.S. § 1508.1(b) (relating to physical examinations).

\* \* \* \* \*

**HbA1C test**—A Hemoglobin A1C test monitors the long-term control of diabetes mellitus.

**Hyperglycemia**—When the level of glucose (sugar) in the blood is too high based on current guidelines established by the American Diabetes Association.

**Hypoglycemia**—When the level of glucose (sugar) in the blood is too low based on current guidelines established by the American Diabetes Association.

**Hypoglycemic reactions**—Different degrees of hypoglycemia which are classified as follows:

(i) **Mild**—Hypoglycemia that signals a blood glucose drop, which the individual can self correct with oral carbohydrates.

(ii) **Severe**—Hypoglycemia that requires outside intervention or assistance of others, or that produces confusion, loss of attention or a loss of consciousness.

**Hypoglycemia unawareness**—A condition when the individual no longer recognizes the body's usual signals of low blood glucose so the first sign of hypoglycemia will often be confusion or loss of consciousness.

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**Symptomatic hyperglycemia**—High glucose levels in the blood that may cause a loss of consciousness or an altered state of perception, including, but not limited to, decreased reaction time, impaired vision or hearing, and confusion.

\* \* \* \* \*

**Type I Diabetes mellitus**—A chronic disease caused by the pancreas producing too little insulin to regulate blood sugar levels.

**Type II Diabetes mellitus**—A chronic disease marked by high levels of sugar in the blood caused by the body failing to respond correctly to natural insulin.

§ 83.5. Other physical and medical standards.

(a) **General disqualifications.** A person who has any of the following conditions will not be qualified to drive:

(1) Unstable [ **or brittle** ] diabetes [ **or hypoglycemia,** ] mellitus leading to severe hypoglycemic reactions, hypoglycemic unawareness or symptomatic hyperglycemia unless there has been a continuous period of at least 6 months [ **freedom** ] free from a [ **related syncopal attack.** ] disqualification in this paragraph. Individuals shall submit results of a HbA1C and vision screening as outlined in the table in subparagraph (i).

(i) *Eligibility Requirements*

[ 67 PA. CODE CH. 71 ]  
School Bus Drivers

<i>Profile Level</i>	<i>Diabetes Mellitus</i>	<i>Medical Report Required</i>	<i>Interval for Review</i>
1	Stabilized diabetes mellitus with no incident of severe hypoglycemic episodes, hypoglycemic unawareness or symptomatic hyperglycemia within the last 6 months.	Yes	6 months
2	Stabilized diabetes mellitus with no incident of severe hypoglycemic episodes, hypoglycemic unawareness or symptomatic hyperglycemia within the last 12 months.	Yes	12 months (*)
3	Stabilized diabetes mellitus with no incident of severe hypoglycemic episodes, hypoglycemic unawareness or symptomatic hyperglycemia within the last 24 months.	Yes	24 months (*)
4	Stabilized diabetes mellitus with no incident of severe hypoglycemic episodes, hypoglycemic unawareness or symptomatic hyperglycemia within the last 48 months or more.	Yes	48 months (*)

(\*)Eligibility determinations may be reviewed earlier if recommended by the treating physician.

(ii) A waiver may be granted if an individual has been previously free from severe hypoglycemic reactions, hypoglycemia unawareness or symptomatic hyperglycemia for the preceding 6 months and the subsequent severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia occurred while the individual was under the treating physician's care, during or concurrent with a nonrecurring transient illness, toxic ingestion or metabolic imbalance. This waiver will only be granted if the treating physician submits written certification indicating it is a temporary condition or isolated incident not likely to recur.

\* \* \* \* \*

[Pa.B. Doc. No. 08-1195. Filed for public inspection June 27, 2008, 9:00 a.m.]

The Department of Transportation (Department), under 75 Pa.C.S. § 1509 (relating to qualifications for school bus driver endorsement), proposes to amend §§ 71.2 and 71.3 (relating to definitions; and physical examination), as set forth in Annex A.

*Purpose of Chapter*

The purpose of Chapter 71 is to define more fully the requirements of 75 Pa.C.S. § 1509 by listing minimum medical requirements for school bus drivers.

*Purpose of the Proposed Amendments*

The purpose of the proposed amendments to §§ 71.2 and 71.3 is to update the medical requirements and standards for school bus drivers that are being treated for diabetes mellitus. Diabetes management and testing continues to evolve. The Department is updating our minimum standards to ensure that only school bus drivers under good control are qualified for the waiver to transport children.

*Summary of Significant Amendments*

Section 71.2 has been amended to correct the term "CRNP—Certified Registered Nurse Practitioner." This certification is obtained solely by the State Board of Nursing; the State Board of Medicine is no longer involved.

We have also added the terms "HbA1C, hyperglycemia, hypoglycemia, symptomatic hyperglycemia, Type I Diabetes mellitus and Type II Diabetes mellitus." In addition, we have also categorized "hypoglycemia reactions" by different degrees of severity. These additions reflect current guidelines established by the American Diabetes Association.

Section 71.3 has been amended to include the categories of hypoglycemic reactions established by the American Diabetes Association. We are adding the requirement for school bus drivers to submit their average Hemoglobin A1C (HbA1C) readings. Our minimum standard is an average of 8% or lower, which indicates that the diabetes is under good control. We are also adding the requirement for the driver to have an annual dilated eye examination.

In addition, the Department has added a waiver provision for individuals that have experienced an episode that would disqualify them from the waiver if the episode was as a result of a nonrecurring transient illness, toxic ingestion or metabolic imbalance as long as the treating physician verifies that it is a temporary condition or isolated incident not likely to recur.

*Persons and Entities Affected*

These amendments affect all licensed school bus drivers or persons interested in becoming a school bus driver that are currently being treated for diabetes mellitus.

*Fiscal Impact*

Implementation of these amendments will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These amendments will not impose any additional costs on the medical community, licensed school bus drivers or applicants for a school bus learner's permit.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the agency submitted a copy of these proposed amendments, on June 18, 2008 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees (Committees). In addition to submitting the proposed amendments, the agency has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed amendments within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of comments, recommendation or objections.

*Sunset Provisions*

The Department will make these amendments effective upon publication in final-form following appropriate evaluation of any 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 to the Vehicle Code. The Department, however, will continue to closely monitor these regulations for their effectiveness.

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Janet L. Dolan, Director, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676 within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

*Contact Person*

The contact person for technical questions about the proposed amendments is Scott Shenk, Manager, Driver Safety Division, Department of Transportation, Bureau of Driver Licensing, P. O. Box 68676, Harrisburg, PA 17106-8676, (717) 783-4534.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

**Fiscal Note:** 18-410. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**Subpart A. VEHICLE CODE PROVISIONS**

**ARTICLE IV. LICENSING**

**CHAPTER 71. SCHOOL BUS DRIVERS**

**§ 71.2. Definitions.**

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

*CRNP—Certified registered nurse practitioner*—A registered nurse licensed in this Commonwealth who is certified [ , ] by [ **both** ] the State Board of Nursing [ **and the State Board of Medicine,** ] in a particular clinical

specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

\* \* \* \* \*

**HbA1C test**—A Hemoglobin A1C test monitors the long-term control of diabetes mellitus.

**Hyperglycemia**—When the level of glucose (sugar) in the blood is too high based on current guidelines established by the American Diabetes Association.

**Hypoglycemic reactions**—Different degrees of hypoglycemia which are classified as follows:

(i) **Mild**—Hypoglycemia that signals a blood glucose drop, which the individual can self-correct with oral carbohydrates.

(ii) **Severe**—Hypoglycemia that requires outside intervention or assistance of others or that produces confusion, loss of attention or a loss of consciousness.

**Hypoglycemia unawareness**—A condition when the individual no longer recognizes the body's usual signals of low blood glucose so the first sign of hypoglycemia will often be confusion or loss of consciousness.

\* \* \* \* \*

**Symptomatic hyperglycemia**—High glucose levels in the blood that may cause a loss of consciousness or an altered state of perception, including, but not limited to, decreased reaction time, impaired vision or hearing, or confusion.

**Type I Diabetes mellitus**—A chronic disease caused by the pancreas producing too little insulin to regulate blood sugar levels.

**Type II Diabetes mellitus**—A chronic disease marked by high levels of sugar in the blood caused by the body failing to respond correctly to natural insulin.

**§ 71.3. Physical examination.**

\* \* \* \* \*

(b) *Requirements of physical examination.* A person is physically qualified to drive a school bus if the person:

\* \* \* \* \*

(4) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring use of insulin or other hypoglycemic medication.

(i) A waiver may be granted to an individual requiring the use of [ **oral hypoglycemic medication** ] **diabetic medications** provided:

(A) The individual's physician verifies in writing that there has been no incident of a **severe** hypoglycemic reaction, **hypoglycemia unawareness or symptomatic hyperglycemia and the individual has been free from insulin reaction resulting in loss of consciousness, attention or awareness or the requirement of assistance from another person,** for the preceding [ **2 years** ] **12 months.**

(B) The driver submits to a **HbA1C test every 3 months and submits to a diabetic examination every 6 months, and submits the results of the examination and the results of 2 consecutive HbA1C tests, on a form provided by the Department, showing an average HbA1C of 8% or lower indicating that the diabetes is under good control. The physician reviewing the diabetic examination shall be familiar with the individual's past diabetic history for 24 months or have access to that history.**

(C) The driver submits to an annual dilated eye examination and submits the results of the examination on a form provided by the Department.

[ (ii) A waiver may be granted to a person requiring the use of insulin provided:

(A) The person's physician verifies in writing to the Department that there has been no incident of hypoglycemic or hyperglycemic reaction and the person has been free from insulin reaction (including loss of consciousness, attention or awareness) or the requirement of assistance from another person, for the preceding 2 years.

(B) The person submits to a diabetic examination every 6 months, including a Hemoglobin A1C, and to a review of the prior 6-month history of blood glucose monitoring. The physician conducting the diabetic examination shall be familiar with the person's past diabetic history for 24 months or have access to that history. ]

[ (C) The person, ] (D) Individuals, upon hire to drive a school bus, shall [ demonstrate his willingness to ] manage [ his ] their diabetes by complying with the following requirements:

(I) Self-monitoring blood glucose 1 hour before driving, and at least every 4 hours while driving or while otherwise on duty, by using a portable blood glucose monitoring device with a computerized memory. If blood glucose is below 80 mg/dL or above 350 mg/dL the [ person ] individual may not drive until [ he takes ] appropriate measures are taken and the individual retests within this acceptable range.

(II) [ Submitting monthly ] Submit the computerized glucometer results of blood glucose self-monitoring for review by [ a physician, certified nurse practitioner, physician's assistant, registered nurse or other health care provider selected by the school district ] the treating physician or a school transportation physician. The results shall also be submitted to the physician conducting the 6-month diabetic examination required by clause (B).

(III) Maintaining a manual blood glucose monitoring log and submitting it, together with the glucose monitoring device's computerized log, every 6 months to the physician conducting the [ person's ] 6-month diabetic examination.

(IV) [ Having in his possession ] Carrying a source of rapidly absorbable glucose at all times while driving a school bus.

(ii) Notwithstanding the provisions in subparagraph (i), a waiver may be granted to an individual who has recently suffered from a severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia as long as the indi-

vidual has been free from severe hypoglycemic reactions, hypoglycemia unawareness or symptomatic hyperglycemia for the preceding 12 months and the subsequent severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia occurred while the individual was under the care of a treating physician, during or concurrent with a nonrecurring transient illness, toxic ingestion or metabolic imbalance. The waiver will only be granted if the treating physician submits written certification indicating it is a temporary condition or isolated incident not likely to recur.

(iii) A reviewing physician finding that [ a person ] the individual previously qualified for a waiver is not complying with the requirements in subparagraph [ (ii)(C) ] (i) and (ii) or is otherwise no longer qualified for the waiver shall promptly report these findings to the Department and the waiver [ shall ] will be rescinded.

(iv) If [ a person ] the individual requiring the use of oral hypoglycemic medication or [ a person requiring the use of ] insulin does not qualify for a waiver, that [ person ] individual may request an independent review of [ his ] the individual's medical records. The review will be conducted by a member of the Medical Advisory Board or by another physician designated by the Department.

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[Pa.B. Doc. No. 08-1196. Filed for public inspection June 27, 2008, 9:00 a.m.]

## PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 435a, 441a AND 465a ]

**Employees; Slot Machine Licenses; and Accounting and Internal Controls**

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1308, 1318 and 1331 (relating to applications for license or permit; occupation permit application; and duty of licensees, key employees and gaming employees), proposes to amend Chapters 435a, 441a and 465a (relating to employees; slot machine licenses; and accounting and internal controls) to read as set forth in Annex A.

### *Purpose of the Proposed Rulemaking*

This proposed rulemaking is intended to expand the list of offenses holders of a license, permit or registration must report to the Board; establish time periods for the submission of additional documents required when an application is being submitted under Slots Link; shift the issuance of temporary credentials for nongaming employees from the casino enforcement agents at the licensed facilities to the Bureau of Licensing; and broaden the restriction on hiring off-duty law enforcement officers as security personnel.

*Explanation of Amendments to Chapters 435a, 441a and 465a*

Currently, § 435a.1(c) (relating to general provisions) only requires reporting of offenses under 18 Pa.C.S. (relating to crimes and offenses) or 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance). To better insure continuing oversight of the character and suitability of individuals who hold a license, permit or registration, offenses involving moral turpitude, offenses under 75 Pa.C.S. which are punishable by 1 year or more and offenses under section 13 of The Controlled Substance Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)) regarding prohibited acts; penalties are being added to this subsection.

Under § 435a.3 (relating to occupation permit), an applicant may submit an application electronically using Slots Link. However, when an application is made using Slots Link, there are additional release forms that must be submitted on paper. In many cases, licensees have not been submitting this paperwork in a timely manner which has resulted in delays in the processing of these applications. To reduce these delays, the Board is proposing that slot machine licensees be required to submit this paperwork within 5 days of the filing of an application using Slots Link. For all other licensees, a 10-day filing period is being established.

In § 435a.9(b) (relating to temporary credentials for nongaming employees), issuance of temporary credentials for nongaming employees will now be done by the Bureau of Licensing instead of the casino enforcement agents at the licensed facilities. Improvements in administrative procedures within the Bureau of Licensing make it more efficient for the Board and the licensed facilities to have the Bureau of Licensing issue the temporary credentials as well as the permanent credentials for nongaming employees.

In § 441a.14 (relating to master purchasing and disbursement report), subsection (b) is being revised to reflect current practice. Slot machine licensees electronically transmit the data required by subsection (a) in a format that the Board has prescribed. Therefore, the language related to the signature no longer applies.

In § 465a.14 (relating to security department minimum staffing), the restriction on hiring off-duty law enforcement officers to provide security in restricted areas or on the gaming floor has been extended to apply to the entire licensed facility. Because incidents that may require investigation by law enforcement officers could occur anywhere in the licensed facility, this revision will help to avoid any actual or appearance of a conflict of interest. Additionally, this will insure that any of a slot machine licensee's security personnel will be able to respond to any incident anywhere in the licensed facility.

*Affected Parties*

This proposed rulemaking will affect: all employers of gaming and nongaming employees who submit applications by means of Slots Link; all individuals who hold a license, permit or registration; and law enforcement officers who desire to seek part-time employment with a slot machine licensee's security department.

*Fiscal Impact*

*Commonwealth*

This proposed rulemaking will have no fiscal impact on the Board or other agencies of this Commonwealth.

*Political Subdivisions*

This proposed rulemaking will have no fiscal impact on political subdivisions of this Commonwealth.

*Private Sector*

Law enforcement officers, who desire to seek part-time employment with a slot machine licensee, will have fewer options because of the prohibition against working in the slot machine licensee's security department.

*General Public*

This proposed rulemaking will have no fiscal impact on the general public.

*Paperwork requirements*

No new reporting or paperwork requirements are created by this rulemaking.

*Effective Date*

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

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-89.

*Contact Person*

The contact person for questions about this proposed rulemaking is Richard Sandusky, Director of Regulatory Review at (717) 214-8111.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 12, 2008, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (Commission) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, the Commission may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the Regulatory Review Criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

MARY DIGIACOMO COLINS,  
*Chairperson*

**Fiscal Note:** 125-89. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE. 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart B. LICENSING, PERMITTING,  
CERTIFICATION AND REGISTRATION**

**CHAPTER 435a. EMPLOYEES**

**§ 435a.1. General provisions.**

\* \* \* \* \*

(c) An individual who receives a license, permit or registration under this part shall have the continuing duty to report to the Board an arrest, charge, indictment or conviction for [ an ]:

(1) An offense involving moral turpitude.

(2) An offense under 18 Pa.C.S. (relating to crimes and offenses) [ , or an ].

(3) An offense under 75 Pa.C.S. [ § 3802 (relating to driving under influence of alcohol or controlled substance) or of comparable ] (relating to vehicles) which is punishable by 1 year or more.

(4) An offense under section 13 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)) regarding prohibited acts; penalties.

(5) Comparable offenses in other states or foreign jurisdictions.

\* \* \* \* \*

§ 435a.3. Occupation permit.

(a) An applicant for an occupation permit shall submit:

(1) An original and three copies of the Gaming Employee Application and Disclosure Information Form or an electronic application using the SLOTS Link system. When an application for an occupational permit is filed using Slots Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the Slots Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the Slots Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a vendor certification.

\* \* \* \* \*

§ 435a.5. Nongaming employee registration.

(a) An applicant for a nongaming employee registration shall submit:

(1) An original and three copies of the Nongaming Employee Registration Form or an electronic application using the SLOTS Link system. When an application for a nongaming employee registration is filed using Slots Link, the additional documents required, including releases, shall be submitted to the Board:

(i) Within 5 days of the submission of the Slots Link application by an applicant for or holder of a slot machine license.

(ii) Within 10 days of the submission of the Slots Link application by an applicant for or holder of a manufacturer, manufacturer designee, or supplier license or an applicant for or holder of a vendor certification.

\* \* \* \* \*

§ 435a.9. Temporary credentials for nongaming employees.

\* \* \* \* \*

(b) Temporary credentials for nongaming employees will be issued by the Bureau of Licensing.

\* \* \* \* \*

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441a. SLOT MACHINE LICENSES

§ 441a.14. Master purchasing and disbursement report.

\* \* \* \* \*

(b) The reports shall be [ signed by the slot machine applicant or licensee and ] transmitted to the Bureau of Licensing by means of electronic data transmission [ or ] in a [ form ] format prescribed by the Board.

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.14. Security department minimum staffing.

\* \* \* \* \*

(b) A slot machine licensee may not employ off-duty law enforcement officers to provide security related services [ on the gaming floor, in restricted areas within ] in the licensed facility or in any manner in connection with the conduct of slot machine operations.

[Pa.B. Doc. No. 08-1197. Filed for public inspection June 27, 2008, 9:00 a.m.]

[ 58 PA. CODE CHS. 461a, 463a, 465a AND 467a ] Slot Machine Testing and Control; Possession of Slot Machines; Accounting and Internal Controls; and Commencement of Slot Operations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1207 and 1322 (relating to regulatory authority of the Board; and slot machine accounting controls and audits), proposes to amend Chapters 461a, 463a, 465a and 467a to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

The proposed rulemaking adds new requirements to improve the Board's oversight of slot machine licensees to insure compliance with the Pennsylvania Race Horse Development and Gaming Act; clarifies various provisions in Chapters 461a and 465a (relating to slot machine testing and control; and accounting and internal controls); and revises existing requirements to provide slot machine licensees with some additional organizational and operating flexibility.

Explanation of Amendments to Chapters 461a, 463a, 465a and 467a

In Chapter 461a, definitions of the terms "RAM" and "RAM clear" have been added to § 461a.1 (relating to definitions). These terms are used in the new § 461a.27 (relating to RAM clear) which codifies the procedures that are currently being used by slot machine licensees when it is necessary to do a RAM clear on a malfunctioning slot machine.

In § 463a.2 (relating to transportation of slot machines into, within and out of this Commonwealth), the Bureau of Investigations and Enforcement (BIE) and the Office of Gaming Operations have been added to the Gaming Lab

as recipients of notices concerning the movement of slot machines into, within or out of this Commonwealth. Providing this notice to BIE and the Office of Gaming Operations will assist them in carrying out their responsibilities related to the movement of slot machines.

Two new provisions have been added to § 465a.2 (relating to internal control systems and audit protocols). A new paragraph (7) has been added which requires slot machine licensees to include the procedures that the slot machine licensees will use to conduct promotions in the slot machine licensees' internal controls. This will allow the Board to determine that sufficient patron protections are included in each promotion without requiring slot machine licensee's to obtain separate approval for each promotion they desire to run. Additionally, a new paragraph (8) is being added which will require slot machine licensees to include the procedures they will use to maintain compliance with 4 Pa.C.S. § 1513 (relating to political influence) in their internal controls. This will allow the Board to ensure that all slot machine licensees have an effective program to prevent violations of 4 Pa.C.S. § 1513.

In § 465a.4 (relating to standard financial and statistical reports), the Board is adding a new reporting requirement. Slot machine licensees will be required to submit quarterly reports reconciling the tax amount invoiced by the Department of Revenue and the tax accrual determined by the slot machine licensee's revenue/income audit process. This report will be used by the Board to help evaluate the effectiveness and accuracy of the slot machine licensees' accounting operations.

In § 465a.8 (relating to licensed facility), the Board is proposing two changes. First, a new paragraph (7) is being added to subsection (d) requiring slot machine licensees to provide an area for the Central Control Computer System which must be equipped with an uninterruptible power supply. This requirement reflects what has been done at existing licensed facilities. Second, a new paragraph (8) is also being added to subsection (d) requiring slot machine licensees to provide signs for the Board office, the size, location and design of which must be approved by the Office of Gaming Operations. This will make it easier for patrons at a licensed facility to locate the Board's office.

In § 465a.9 (relating to surveillance system; surveillance department control; surveillance department restrictions), the references to "cashiering location" in subsection (e) have been replaced with "cashiers' cage" to make it clear that this requirement for surveillance only applies to the cashiers' cages and not to cashier locations in the retail or food and beverage areas.

In § 465a.11 (relating to slot machine licensee's organization), language has been added to allow a slot machine licensee to have an assistant chief executive officer who acts as the chief executive officer in the chief executive officer's absence and to whom any of the six required department supervisors may directly report. This will give slot machine licensees some additional organizational flexibility and reflects the organizational structure of one of the existing slot machine licensees.

A new § 465a.33 (relating to access to areas containing Central Control Computer System equipment) has been proposed which specifies minimum requirements that must be included in a slot machine licensee's internal controls pertaining to access to areas containing Central Control Computer System equipment. These minimum

requirements will insure that access to the Central Control Computer System equipment is limited to authorized personnel only.

In § 467a.1 (relating to gaming floor plan), the process for approving requests for changes to the gaming floor are being clarified and streamlined. Requests for changes to the square footage of, the number of slot machines on, or the relocation of more than 2% of the existing slot machines on the gaming floor will be required to be filed as a petition under § 493a.4 (relating to petitions generally) and approved by the Board. Other change requests can be submitted in writing to the Office of Gaming Operations and will be approved by the Executive Director. This should result in quicker approval of changes that do not involve changes in the square footage of, location of slot machines on, or the number of slot machines on the gaming floor.

#### *Affected Parties*

Slot machine licensees will be required to develop and file new internal controls and comply with the other provisions of this proposed rulemaking. Additionally, manufacturers, manufacturer designees and suppliers will have to comply with the new notice requirement in § 463a.2.

#### *Fiscal Impact*

##### *Commonwealth*

Because most of the revisions in this rulemaking reflect current Department of Revenue and Board practice, there will be no significant costs or savings to the Department, the Board or other State agencies as a result of these revisions.

##### *Political Subdivisions*

This proposed rulemaking will have no fiscal impact on political subdivisions of this Commonwealth.

##### *Private Sector*

Slot machine licensees will experience some costs to draft new internal controls, file the new quarterly reports required by § 465a.4(a) and obtain signs for the Board's offices at the licensed facilities. The Board estimates that these costs should not exceed \$2,000 per slot machine licensee.

##### *General Public*

This proposed rulemaking will have no fiscal impact on the general public.

##### *Paperwork requirements*

This proposed rulemaking will require slot machine licensees to draft and submit amendments to their internal controls, prepare and submit quarterly revenue reconciliation reports and provide notice to BIE and the Office of Gaming Operations, in addition to the Gaming Lab, when slot machines are to be moved.

##### *Effective Date*

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

##### *Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-88.



Contact Person

The contact person for questions about this proposed rulemaking is Richard Sandusky, Director of Regulatory Review at (717) 214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 12, 2008, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (Commission) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the act, the Commission may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: 125-88. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.1. Definitions.

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

\* \* \* \* \*

RAM—Random access memory.

RAM clear—A process initiated by a service technician that results in the zeroing out of any meter information, configuration information or data stored in the slot machine's memory.

\* \* \* \* \*

§ 461a.27. RAM clear.

(a) When a slot machine licensee becomes aware of a nonresponsive slot machine and communication between the slot machine and the Central Control Computer System can not be reestablished, the slot machine licensee shall immediately notify the Department's operator of the Central Control Computer System and the casino enforcement agents at the licensed facility. The slot machine licensee may not do a RAM clear on the affected slot machine until a casino enforcement agent has recorded the information on the financial meters.

(b) For planned RAM clears, the slot machine licensee shall provide notice to the Department's operator of the Central Control Computer System and the casino enforcement agents at the licensed

facility at least 48 prior to the scheduled RAM clear. A second notice shall be provided to the Department's operator of the Central Control Computer System and the casino enforcement agents at the licensed facility immediately prior to actually conducting the RAM clear.

CHAPTER 463a. POSSESSION OF SLOT MACHINES

§ 463a.2. Transportation of slot machines into, within and out of this Commonwealth.

In furtherance of section 1511 of the act (relating to the declaration of exemption from Federal laws prohibiting slot machines), prior to the transport or movement of a slot machine into this Commonwealth, from one person authorized to possess slot machines under § 463a.1 (relating to possession of slot machines generally) to another person authorized within this Commonwealth or transport or movement out of this Commonwealth, the persons causing the slot machine to be transported or moved shall notify the Bureau of Gaming Laboratory Operations, BIE and the Office of Gaming Operations in writing or in an electronic format approved by the Board. The notice shall be submitted no later than the day the slot machine is transported and include the following information:

\* \* \* \* \*

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.2. Internal control systems and audit protocols.

(a) An applicant for, or holder of, a slot machine license shall submit to the Board and the Department a written description of its initial system of administrative and accounting procedures, including its internal control systems and audit protocols (collectively referred to as its "internal controls") at least 90 days before gaming operations are to commence. A written system of internal controls must include:

\* \* \* \* \*

(7) Procedures governing the conduct of all gaming related promotions to be offered by the slot machine licensee.

(8) Procedures to ensure compliance with section 1513 of the act (relating to political influence):

(i) Prevent political contributions.

(ii) Provide annual certifications that the slot machine licensee has conducted a good faith investigation that has not revealed any violations to the Board and to the Department of State's Bureau of Commissions, Elections and Legislation.

(9) Other items the Board may request in writing to be included in the internal controls.

\* \* \* \* \*

§ 465a.4. Standard financial and statistical reports.

(a) [ A ] Within 30 days of the close of each calendar quarter, slot machine [ licensee ] licensees shall file [ the following monthly reports of financial and statistical data:

- (1) A balance sheet.
(2) A statement of revenues and expenses.
(3) A cash flow statement.
(4) A net income statement.

(5) Daily gross terminal revenues and taxes.

(6) A comparison of gross terminal revenues to projected gross terminal revenues ] a report which includes a detailed reconciliation of the amount invoiced by the Department to the tax accrual determined by the slot machine licensee's revenue/income audit process. The reconciliation shall be determined by the slot machine licensee on no less than a weekly basis and the report must provide the date and the amount of any differences found during the reconciliation process. The reports shall be filed with the Board's Office of Gaming Operations and Financial Investigative Division and the Department's Bureau of Fiscal Management.

(b) The Board may prescribe standard reporting forms and corresponding filing instructions to be used by a slot machine licensee in filing the [ monthly ] reports referenced in subsection (a).

\* \* \* \* \*

§ 465a.8. Licensed facility.

\* \* \* \* \*

(d) Slot machine licensees shall, in accordance with section 1207(13) of the act (relating to regulatory authority of board), provide for and maintain onsite facilities for use by the Board, the Department and the Pennsylvania State Police for the purpose of carrying out their respective responsibilities (collectively referred to as the "onsite facilities"). The onsite facilities must be located in the same building as [ , and be located proximate to, ] the gaming floor, in locations approved by the Office of Gaming Operations and include suitable office space, equipment, partitions and supplies to meet the continuing needs of the Board, the Department and the Pennsylvania State Police at the facility including the following:

\* \* \* \* \*

(7) An area for the operation and storage of the Central Control Computer System equipment which must be equipped with an uninterruptible power supply.

(8) Signs indicating the location of the Board's office. The size, location and design of the signs must be approved by the Office of Gaming Operations.

\* \* \* \* \*

§ 465a.9. Surveillance system; surveillance department control; surveillance department restrictions.

\* \* \* \* \*

(e) A slot machine licensee's surveillance system must [ be required to ] continuously record, during the times and in the manner indicated in this subsection, transmissions from cameras used to observe the following locations, persons, activities or transactions:

(1) Each transaction conducted [ at a cashiering location, whether or not that cashiering location services patrons ] on the gaming floor or at a cashiers' cage. Coverage of the transaction must include, but not be limited to, recording transmissions from cameras used to observe the face of each [ person ] patron transacting business at [ each cashiering location ] a cashiers' cage from the direction of the cashier.

\* \* \* \* \*

§ 465a.11. Slot machine licensee's organization.

(a) Slot machine licensees' systems of internal controls must, in accordance with section 1322 of the act (relating to slot machine accounting controls and audits) and § 465a.2 (relating to internal control systems and audit protocols), include organization charts depicting segregation of functions and responsibilities and descriptions of the duties and responsibilities for each position shown on each organization chart. Slot machine licensees shall be permitted, except as otherwise provided in this section, to tailor organizational structures to meet the needs or policies of a particular management philosophy. A slot machine licensee's organization charts must provide for:

\* \* \* \* \*

(5) A chief executive officer. For the purposes of this section, a "chief executive officer" means the person located at the licensed facility who is ultimately responsible for the daily conduct of the slot machine licensee's gaming business regardless of the form of business association of the slot machine licensee or applicant or the particular title which that person or any other person holds. A slot machine licensee's organization chart may also include an assistant chief executive officer who is responsible for the daily conduct of the slot machine licensee's gaming business during the chief executive officer's absence. However, the assistant chief executive officer may not be the supervisor of one of the department's required by subsection (b). Each supervisor of a department required by subsection (b) shall report directly to the chief executive officer or assistant chief executive officer of the slot machine licensee regarding administrative matters and daily operations. The slot machine licensee's organization charts must designate which positions, in the absence of the chief executive officer and the assistant chief executive officer, shall be designated as having responsibility for the daily conduct of the slot machine licensee's gaming business.

\* \* \* \* \*

§ 465a.33. Access to areas containing Central Control Computer System equipment.

(a) A slot machine licensee shall develop and submit to the Board and the Department, as part of the submission required under § 465a.2 (relating to internal control systems and audit protocols), procedures for safeguarding and limiting access to the Central Control Computer System (CCCS) equipment housed within the licensed facility. At a minimum, these procedures must include the following requirements:

(1) The area containing CCCS equipment must:

(i) Be secured with a manual key lock system.

(ii) Have a door, that when opened, audibly signals the surveillance monitoring room.

(iii) Have adequate surveillance camera coverage to record all activity in the area.

(2) All keys which access the area containing CCCS equipment shall be maintained by the slot machine licensee's security department. Access to the keys may only be authorized by the director of security or the security shift manager with notification to the surveillance monitoring room and the casino enforcement agents at the licensed facility.

(3) The slot machine licensee shall maintain an access log for the area containing CCCS equipment. The log shall be maintained in a book with bound numbered pages that cannot be readily removed and placed in close proximity to the CCCS equipment. Casino enforcement agents at the licensed facility may review the log upon request. The log shall be stored and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents). The following information shall be recorded in a log:

- (i) The date and time of each entry and exit.
  - (ii) The name and Board-issued credential number of each person who initiates, performs or supervises the entry.
  - (iii) The purpose of entry.
- (4) The slot machine licensee's security department shall maintain a list of employees who are authorized to have access to the area containing CCCS equipment. The list must be approved by the Department and made available to the casino enforcement agents at the licensed facility.
- (5) Emergency access may only be granted with a security escort and notification to the Department,

the Bureau and the casino enforcement agents at the licensed facility.

**CHAPTER 467a. COMMENCEMENT OF SLOT OPERATIONS**

**§ 467a.1. Gaming floor plan.**

\* \* \* \* \*

(c) [ A slot machine licensee may not change or revise the square footage of its gaming floor or the number, configuration or location of slot machines on the floor plan approved under subsection (b) without prior written approval of the Board ] Requests for changes to the square footage of the gaming floor, the number of slot machines on the floor plan approved under subsection (b) or the relocation of 2% or more of the slot machines on the floor plan approved under subsection (b) require Board approval and must be submitted to the Board as a petition under § 493a.4 (relating to petitions generally). Requests for other changes to the gaming floor must be submitted in writing to the Office of Gaming Operations and approved by the Board's Executive Director.

[Pa.B. Doc. No. 08-1198. Filed for public inspection June 27, 2008, 9:00 a.m.]

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