

PROPOSED RULEMAKING

DEPARTMENT OF STATE

[49 PA. CODE CH. 43b]

Continuing Education Enforcement

The Commissioner of Professional and Occupational Affairs (Commissioner) proposes to amend § 43b.6 (relating to schedule of civil penalties—funeral directors and funeral establishments) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs (Bureau), to promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards. Section 11(a)(6) of the Funeral Director Law (act) (63 P. S. § 479.11(a)(6)) authorizes the State Board of Funeral Directors to take disciplinary action against a licensee for violating any provisions of the act or regulations of the Board. Section 17(b) of the act (63 P. S. § 479.17(b)) authorizes the Board to levy a civil penalty of up to \$1,000 on any licensee who violates any provision of the act.

Background and Need for the Amendment

Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's licensing boards. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive an Act 48 citation have the right to a hearing and retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented, and they have become an important part of the Bureau's enforcement efforts, with approximately 30% of all sanctions imposed by the licensing boards being accomplished through the Act 48 citation process. The Board has had an Act 48 schedule of civil penalties since 1997 (See, 27 Pa.B. 6467 (December 12, 2009)).

Section 10(b)(2) of the act (63 P. S. § 479.10(b)(2)) requires licensees to complete 6 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal. In accordance with section 10(b)(1) of the act (63 P. S. § 479.10(b)(1)), in 2005 the Board promulgated regulations to implement the continuing education requirement. Under the current regulations, any failure to comply with the continuing education requirements could lead to formal disciplinary action. As is being done for other licensing boards with continuing education requirements, the Commissioner is proposing a civil penalty schedule for violation of the continuing education requirements for licensees of the Board, because the Commissioner and Board believe the Act 48 citation process will be a much more efficient method of handling violations, while still ensuring licensees retain their right to due process of law. Payment of the civil penalty will not relieve a licensee of the obliga-

tion to complete the required amount of mandatory continuing education. Under the separate rulemaking being proposed by the Board, a licensee who fails to complete the required amount of mandatory continuing education during the biennial renewal period will also be required to complete the required continuing education during the first 6 months of the renewal period; failure to complete the required continuing education by that deadline with subject the licensee to formal disciplinary action.

Description of the Proposed Amendments

The Commissioner, in consultation with the Board, proposes for a first offense violation of failing to complete the required amount of mandatory continuing education during the biennial renewal period a civil penalty \$175 for each credit hour that the licensee is deficient, up to a maximum of \$1,000. Second and subsequent offenses would not be subject to an Act 48 citation, but rather, would proceed through the formal disciplinary process.

Compliance with Executive Order 1996-1

The Board considered and approved the proposed amendments at regularly scheduled public meetings. The Commissioner reviewed the proposed amendments and considered their purpose and likely impact upon the public and the regulated community under the directives of Executive Order 1996-1. The proposed rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions, or the private sector. Instead, the proposed rulemaking will reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for those violations subject to the Act 48 citation process.

Sunset Date

Professional licensure statutes require each board to be self-supporting. Therefore, the Commissioner and the boards continuously monitor the cost effectiveness of their regulations. As a result, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 22, 2009, the Commissioner submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, at P. O. Box 2649, Harrisburg, PA 17105-2649 or ST-FUNERAL@state.pa.us, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16-47 (funeral board CE enforcement), when submitting comments.

BASIL L. MERENDA,
*Commissioner of Professional
and Occupational Affairs*

Fiscal Note: 16-47. No fiscal impact; (8) recommends adopted.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.6. Schedule of civil penalties—funeral directors and funeral establishments.

STATE BOARD OF FUNERAL DIRECTORS

Violation Under

63 P. S.

Title/Description Penalties

Section 479.10(b)

Failure to complete the required amount of continuing education

**First offense—\$175 per hour of deficiency, not to exceed \$1,000
Second offense—formal action**

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[Pa.B. Doc. No. 09-797. Filed for public inspection May 1, 2009, 9:00 a.m.]

[49 PA. CODE CH. 43b]

Schedule of Civil Penalties—Engineers, Land Surveyors and Geologists

The Commissioner of Professional and Occupational Affairs (Commissioner) proposes to amend § 43b.13a (relating to schedule of civil penalties—engineers, land surveyors and geologists) to read as set forth in Annex A.

Effective date

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

Statutory Authority

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs (the Bureau), to promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards. Section 4(g) of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P. S. § 151(g)) authorizes the State Registration Board for Professional Engineers, Land Surveyors and Geologists to take disciplinary action against a licensee for violating any provisions of the act or regulations of the Board. Section 11(b) of the act (63 P. S. § 158(b)) authorizes the Board to levy a civil penalty of up to \$1,000 on any licensee who violates any provision of the act.

Background and Need for the Amendment

Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's licensing boards. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive an Act 48 citation retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented, and they have become an important part of the Bureau's enforcement efforts, with approximately 30% of all sanctions imposed by the licensing boards being accomplished through the Act 48 citation process. The Board has had an Act 48 schedule of civil penalties since 2001 (See, 31 Pa.B. 1227 (March 3, 2004)).

Act 170 of 2006 added to the act section 4.5 (relating to mandatory continuing education). Section 4.5(a) of the act (63 P. S. § 151.5(a)) requires licensees to complete 24 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal and requires the Board to promulgate regulations to enforce the continuing education requirement. The Board is proposing through a separate rulemaking regulations to implement the mandatory continuing education requirements. As is being done for other licensing boards with continuing education requirements, the Commissioner is proposing a civil penalty schedule for violation of the continuing education requirements for licensees of the Board, because the Commissioner and Board believe the Act 48 citation process will be a much more efficient

method of handling violations, while still ensuring licensees due process. Payment of the civil penalty will not relieve a licensee of the obligation to complete the required amount of mandatory continuing education. Under the separate rulemaking being proposed by the Board, a licensee who fails to complete the required amount of mandatory continuing education during the biennial renewal period will also be required to complete the required continuing education during the next 6 months; failure to complete the required continuing education by that deadline with subject the licensee to formal disciplinary action.

Description of the Proposed Amendments

The Commissioner, in consultation with the Board, proposes for a first offense violation of failing to complete the required amount of mandatory continuing education during the biennial renewal period a civil penalty \$50 for each credit hour that the licensee is deficient, up to a maximum of \$1,000. Second and subsequent offenses would not be subject to an Act 48 citation, but rather, would proceed through the formal disciplinary process.

Compliance with Executive Order 1996-1

The Board considered and approved the proposed amendments at regularly scheduled public meetings. The Commissioner reviewed the proposed amendments and considered their purpose and likely impact upon the public and the regulated community under the directives of Executive Order 1996-1. The proposed rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector. Instead, the proposed rulemaking will reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for those violations subject to the Act 48 citation process.

Sunset Date

Professional licensure statutes require each board to be self-supporting. Therefore, the Commissioner and the boards continuously monitor the cost effectiveness of their regulations. As a result, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 22, 2009, the Commissioner submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional

Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-ENGINEER@state.pa.us, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16-43 (Act 48 engineer CE), when submitting comments.

BASIL L. MERENDA,
Commissioner

Fiscal Note: 16-43. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.13a. Schedule of civil penalties—engineers, land surveyors and geologists.

STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

<i>Violation Under</i>	<i>Title/</i>	<i>Penalties</i>
<i>63 P. S.</i>	<i>Description</i>	
	* * * * *	
Section 151. 5(a)	Failure to complete the required amount of continuing education	First offense—\$50 per hour of deficiency, not to exceed \$1,000 Subsequent offense—formal action

[Pa.B. Doc. No. 09-798. Filed for public inspection May 1, 2009, 9:00 a.m.]

STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11] Biennial Renewal Fees

The State Board of Accountancy (Board) proposes to amend § 11.4 (relating to fees) to read as set forth in Annex A.

Description of Proposed Rulemaking

Section 11.4 sets forth a schedule of fees charged by the Board. The proposed rulemaking would raise the biennial renewal fee for certified public accountants, public accountants and public accounting firms from \$45 to \$100 and the biennial renewal fee for continuing education program sponsors from \$120 to \$150. The proposed rulemaking also would make an editorial change by deleting a now-unnecessary reference to the date that the current biennial renewal fee for program sponsors took effect.

Background and Need for Proposed Rulemaking

Section 6 of the CPA Law (63 P. S. § 9.6) provides that the Board's biennial revenues from fees, fines and civil penalties shall meet or exceed the Board's biennial expenditures. Because fines and civil penalties have historically accounted for a small percentage of the Board's total revenues, the Board must generate most of its revenues from fees.

The Board's principal sources of fee revenues are the fees charged to certified public accountants, public accountants and public accounting firms for biennial renewal of their licenses and to continuing education program sponsors for biennial renewal of their approvals. The Board's biennial renewal fees currently account for approximately 84% of the Board's fee revenues during each biennial renewal period. The biennial renewal fees defray general operating expenses and overhead—primarily in the areas of investigation, prosecution and enforcement—that are not susceptible of being apportioned to individual credential-holders in the regulated community.

The biennial renewal fee for certified public accountants, public accountants and public accounting firms was last raised in June 1990, going from \$30 to \$45, and currently applies to 23,128 active licensees. The biennial renewal fee for continuing education program sponsors was established in January 2001 and was first assessed on renewing program sponsors for the biennial renewal period that began January 1, 2004. It currently applies to 746 active program sponsors.

According to an analysis prepared by the Department of State's Bureau of Finance and Operations (BFO), the Board's current biennial renewal fee structure is inadequate to meet the Board's revenue needs. Unless the biennial renewal fees are increased, the Board faces large deficits in the coming years, as reflected in the following projections made by the BFO:

<i>Financial Status</i>	<i>FY07-08</i>	<i>FY08-09</i>	<i>FY09-10</i>	<i>FY10-11</i>	<i>FY11-12</i>
Beginning Balance:	(\$61,682.47)	\$312,936.92	(\$616,063.08)	(\$579,063.08)	(\$1,577,063.08)
Revenue:	\$1,200,000.00	\$200,000.00	\$1,200,000.00	\$200,000.00	\$1,200,000.00
Prior Yr. Returned Funds:	\$329,014.63	0	0	0	0
Total Revenue:	\$1,467,331.96	\$512,936.92	\$583,936.92	(\$379,063.08)	(\$377,063.08)
Adjust. For Prior Year Expenses:	\$58,395.04	0	0	0	0
Expenses:	\$1,096,000.00	\$1,129,000.00	\$1,163,000.00	\$1,198,000.00	\$1,258,000.00
Remaining Balance:	\$312,936.92	(\$616,063.08)	(\$579,063.08)	(\$1,577,063.08)	(\$1,635,063.08)

Based on fiscal information provided by the BFO, the Board determined that it would need to increase its biennial renewal fee for certified public accountants, public accountants and public accounting firms by approximately 125% in order to have sufficient biennial revenues to offset its biennial expenditures over the next nine years. Accordingly, the Board has opted to raise the biennial renewal fee from \$45 to \$100—a 122% increase—effective with the biennial renewal period that begins January 1, 2010. The revenues from the higher biennial renewal fee should defer the need for a further fee increase until the biennial renewal period that begins January 1, 2018.

The Board has also opted for a 25% increase in the \$120 biennial renewal fee for continuing education program sponsors, effective with the biennial renewal period that begins January 1, 2010. When establishing program sponsor fees in 2001 as part of a restructuring of its regulatory scheme for approving program sponsors, the Board estimated that there would be approximately 1,150 active Board-approved program sponsors as of the start of the first biennial renewal period on January 1, 2004. (Program sponsors approved by the National Association of State Boards of Accountancy are exempt from the Board's approval requirements.) The Board's estimate proved too optimistic; at present there are 35% fewer active Board-approved program sponsors than originally

estimated. The 25% increase in the biennial renewal fee for program sponsors would recapture a portion of the revenues that had been projected when the fee was initially established.

According to the BFO, the higher biennial renewal fees would raise biennial renewal revenues from the current \$1,130,280 to \$2,424,700. The BFO estimates that these additional biennial revenues would enable the Board to maintain positive biennial revenue balances through the end of FY15-16, when the revenue balance is projected to be \$512,936.92.

Fiscal Impact

The proposed rulemaking would generate approximately \$1,294,420 in additional biennial renewal revenues, broken down as follows:

<i>Regulated Class</i>	<i>Number of Renewing Credential-holders</i>	<i>Fee Increase</i>	<i>Additional Revenues</i>
Certified Public Accountant	21,581	× \$55	\$1,186,955
Public Accountant	264	× \$55	\$14,520
Public Accounting Firm	1,283	× \$55	\$70,565
Continuing Education Program Sponsor	746	× \$30	\$22,380

Paperwork Requirements

The proposed rulemaking would require the Board to change its biennial renewal forms to reflect the new fees. The proposed rulemaking would not create additional paperwork for the regulated community.

Effective Date

The proposed rulemaking would become effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*. The new biennial renewal fees would apply to those that renew their licenses or approvals for the biennial renewal period that begins January 1, 2010.

Statutory Authority

Section 6 of the CPA Law requires the Board to establish fees by regulation and to ensure that revenues derived from fees, fines and civil penalties are adequate to cover the Board's expenditures over a biennial period.

The Board considers the proposed rulemaking to be both required by law and the least restrictive means of covering the cost of activities that the Board is required to perform.

Regulatory Review

On April 22, 2009, as required under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted copies of this proposed rulemaking, a Regulatory Analysis Form and Fee Report Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Standing Committee on Consumer Protection and Professional Licensure and the House Standing Committee on Professional Licensure. Copies of the Regulatory Analysis Form and Fee Report Form are available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act sets forth detailed procedures that permit the Board, the General Assembly and the Governor to review any comments, recommendations or objections prior to final publication of the rulemaking.

Public Comment

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

SAMUEL J. STEPHENSON, CPA,
Chairperson

Fiscal Note: 16A-5512. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**CHAPTER 11. STATE BOARD OF ACCOUNTANCY
GENERAL PROVISIONS**

§ 11.4. Fees.

Following is the schedule of fees charged by the Board:

* * * * *

Biennial renewal of license of certified public accountant, public accountant or public accounting firm. [\$45] \$100

* * * * *

Biennial renewal of approval of program sponsor [beginning January 1, 2004] [\$120] \$150

[Pa.B. Doc. No. 09-799. Filed for public inspection May 1, 2009, 9:00 a.m.]

STATE BOARD OF FUNERAL DIRECTORS

[49 PA. CODE CH. 13]

Continuing Education Enforcement

The State Board of Funeral Directors (Board) proposes to amend §§ 13.231 and 13.401 (relating to biennial registration; unregistered status and inactive status; failure to renew; and credit hour requirements), to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

Statutory Authority

This proposed rulemaking is authorized under sections 10(b) and 16(a) of the Funeral Director Law (act) (63 P. S. §§ 479.10(b) and 479.16(a)).

Background and Need for the Amendment

Section 10(b)(2) of the act requires licensees to complete 6 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal. Under section 11(a)(6) of the act, the Board may take disciplinary action against any licensee who fails to comply with any provision of the act or Board regulations. Disciplinary actions for failing to complete the continuing education requirement in a timely manner invariably result in the licensee being required to pay a civil penalty proportionate to the amount of deficiency and to make up the deficiency promptly. Accordingly, the Board proposes to utilize the more streamlined procedures under section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) (Commissioner of Professional and Occupational Affairs, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs, may promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards).

Description of the Proposed Amendments

Under proposed § 13.401(d), a licensee who has not completed the required amount of continuing education would be required to pay a civil penalty, under 49 Pa. Code § 43b.6 (related to schedule of civil penalties—funeral directors and funeral establishments). The civil penalty schedule for continuing education violations (first offense) will be promulgated by the Commissioner of Professional and Occupational Affairs in a separate rulemaking package. See 39 Pa.B. 2210 (May 2, 2009). Second or subsequent offenses will subject the licensee to discipline under section 11(a)(6) of the act, which authorizes the Board to discipline a licensee for violating the act or a regulation of the Board. A licensee who did not complete the required amount of continuing education would be required to complete the entire amount of mandatory continuing education and provide the Board with proof within the first 6 months of the renewal period.

The proposed rulemaking would also revise the requirement of § 13.231(a) (unless excused for good cause, the Board will not renew a funeral director's licensee unless the licensee has certified that the licensee completed the required amount of continuing education). Instead, the licensee would only be required to certify that the licensee has complied with the continuing education requirements "in accordance with §§ 13.401—13.406 (relating to con-

tinuing education)." As discussed previously, the proposed rulemaking would revise those provisions to permit renewal by a licensee who has not completed the required amount of continuing education, conditioned upon paying a civil penalty and making up the deficient hours of continuing education within the first 6 months of the renewal period.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-FUNERAL@state.pa.us, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4818 (continuing education enforcement), when submitting comments.

MICHAEL J. YEOSOCK, FD
Chairperson

Fiscal Note: 16A-4818. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

LICENSE RENEWAL

§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.

(a) A licensee shall register each biennial period to retain the right to practice. Initial registration shall

automatically occur when a license is issued. Registration for a biennial period expires on the first day of February of every even number year. Unless excused by the Board for good cause under section 10(b)(4) of the act (63 P. S. § 479.10(4)), the Board will not grant an application for renewal of a funeral director license unless the licensee has certified that the licensee has **[completed the amount of continuing education required by § 13.401 (relating to credit hour requirements) complied with the continuing education requirements mandated by section 10(b) of the act during the biennial period immediately preceding the application for renewal in accordance with §§ 13.401—13.406 (relating to continuing education).**

* * * * *

CONTINUING EDUCATION

§ 13.401. Credit hour requirements.

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(d) Unless otherwise excused as authorized under the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 17(b) of the act (63 P. S. § 479.17(b)) in accordance with the schedule of civil penalties in § 43b.6 (relating to schedule of civil penalties—funeral directors and funeral establishments). A second or subsequent violation will subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P. S. § 479.11(a)(6)). Within 6 months after the end of the renewal period during which the required amount of continuing education was not completed, the licensee shall make up the deficiency and shall provide proof of attendance at continuing education courses during the previous biennial registration period as required under § 13.402 (relating to reporting completion of continuing education). In addition to any civil penalty assessed under this subsection, failure to provide the Board with proof of the required amount of continuing education within 6 months after the beginning of a biennial period in which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P. S. § 479.11(a)(6)).

[Pa.B. Doc. No. 09-800. Filed for public inspection May 1, 2009, 9:00 a.m.]

**STATE BOARD OF
PSYCHOLOGY**

[49 PA. CODE CH. 41]

Qualifications

The State Board of Psychology (Board) proposes to amend §§ 41.1, 41.31, 41.32 and 41.41 and to add § 41.30 (relating to qualifications and documentation necessary for licensure), to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The amendments are proposed under the authority of sections 3.2(1), 6(a) and 8(a)(6) of the Professional Psychologists Practice Act (act) (63 P. S. §§ 1203.2(1), 1206(a)(2) and 1208(a)(6)).

C. Purpose and Background

This proposed rulemaking has three purposes: (1) reorganize the examination, education and experience provisions into three separate sections; (2) clarify the experience and supervisions requirements; and (3) permit graduates of doctoral degree programs in psychology and a field related to psychology to take the licensing examination after completing their education.

Reorganization

To obtain a license as a psychologist, applicants shall complete educational, experience and examination requirements. The current regulations interweave these requirements. Current §§ 41.31(a) and 41.41 (relating to qualifications for taking licensing examination; and examinations) contain examination provisions; current § 41.31(b) contains the educational requirements; and current experience and supervision requirements are contained in subsection (c). Additionally, current §§ 41.31(c) and 41.32 (relating to standards for supervisors) contains experience and supervision requirements.

In this proposed rulemaking, the Board would reorganize the education, examination and experience requirements into three separate sections—§ 41.31 for educational requirements, § 41.32 for experience requirements and § 41.41 for examination requirements.

Clarification of experience and supervision requirements

The act requires 2 years of supervised experience to obtain a license. One year of that experience is obtained as part of the doctoral degree program and is administered by the program's internship director. The other year of supervision is completed after graduation. The Board currently defines the year as 1,500 hours of supervised experience of which 50% of the hours must be obtained in clinical practice. The remaining hours may be in clinical practice or in research. In reviewing this experience, the Board determined that 1,750 hours more accurately reflects an actual year of practice calculated at an average of 35 hours per week excluding vacations, holidays and sick days. This increased time frame is also consistent with the experience required in neighboring jurisdictions, including New York, New Jersey, Maryland, Ohio and the District of Columbia.

Additionally, the Board receives numerous telephone, mail and e-mail inquiries from students pursuing their doctoral degrees, doctoral degree graduates, primary and delegated supervisors and potential primary and delegated supervisors seeking clarification about experience timing, settings and supervisory responsibilities and prohibitions. The Board believes that the proposed amendments will provide clarity with regard to these issues.

Examination changes

Current examination requirements prohibit applicants from taking the licensure examination until after completing their experience. In this proposed rulemaking, the Board proposes to remove this prohibition and permit applicants to take the examination at any time after

graduation. The Board believes that these graduates should be permitted to take their examinations closer in time to when they graduate. Further, 41 states—including New York and Virginia—permit doctoral degree graduates to take the licensure examinations prior to obtaining their postdoctoral experience.

D. Description of Proposed Amendments:

§ 41.1—Definitions.

The Board proposes to add five definitions to this section. Two of the definitions—“delegated supervisor” and “primary supervisor”—identify the types of supervisors referred to in the amendments to § 41.32 (relating to experience qualifications). These supervisors are assigned various responsibilities and duties over individuals who provide psychology services but who are not yet licensed. Under the proposed definition, a delegated supervisor may include another psychology resident when that psychology resident falls within the exemptions in section 3(4)—(8) of the act (63 P. S. § 1203(4)—(8)) or holds a license in another health profession. The Board believes that in such a circumstance, the delegated supervisor has expertise in an area outside of psychology that may be beneficial to the psychology resident.

Two definitions are proposed to identify individuals who are seeking licensure: “psychology interns,” who have not yet obtained their doctoral degree and are participating in a predoctoral internship, and “psychology residents,” who have obtained their doctoral degree and are fulfilling their postdoctoral experience requirements. Additionally, the Board proposes adding a definition for the term “psychology trainee” to describe both psychology interns and psychology residents.

§ 41.30—Qualifications and documentation necessary for licensure.

The Board proposes to add this new section to identify the qualifications and documentation necessary for licensure. Proposed subsection (a) references the educational, experience and examination requirements. Proposed subsection (b) sets forth the three documents currently required to obtain a license: the experience verifications completed by the applicant’s supervisor or supervisors, the criminal background verification completed by the State Police and the Child Abuse History Clearance completed by the Department of Public Welfare.

The criminal background verification proposed in subsection (b)(2) provides the Board with documentation used to determine whether the applicant has acceptable moral character required by section 6(a)(1) of the act whether the applicant has been convicted of a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) required under section 6(a)(5) of the act (63 P. S. § 1206(a)(5)); and whether the applicant has been convicted of any felony or a misdemeanor in the practice of psychology as required by section 8(a)(6) of the act. Similarly, the Child Abuse History Clearance proposed in subsection (b)(3) provides the Board with documentation used to determine whether the applicant has acceptable moral character required by section 6(a)(1) of the act. This clearance is already required for individuals employed by schools and childcare agencies under 23 Pa.C.S. Chapter 63 (relating to child protective services). Both verifications are available online. The criminal background check may be completed online at <http://epatch.state.pa.us>. Applicants who want to submit the background check request by mail may download the form at: <http://www.dpw.state.pa.us/Resources/Documents/>

[Pdf/FillInForms/statepolice-bkgd.pdf](http://www.dpw.state.pa.us/Resources/Documents/Pdf/FillInForms/statepolice-bkgd.pdf). The Child Abuse History Clearance form may be downloaded at: <http://www.dpw.state.pa.us/Resources/Documents/Pdf/FillInForms/DPWchildabuse.pdf> and must be mailed to the Department of Public Welfare for processing.

§ 41.31—Educational qualifications.

The Board proposes removing the administrative procedures for taking the examination in subsection (a) and moving them to new § 41.41(d) and (e) with the other examination requirements.

The only proposed change to the educational requirements in current subsection (b) is the addition of “a field related to psychology” in paragraph (4). This requirement was inadvertently omitted from prior rulemaking.

Like the examination provisions in current subsection (a), the Board proposes eliminating subsection (c) and incorporating the postdoctoral experience provisions currently in subsection (c)(1) into § 41.32. The Board proposes eliminating the 1 year predoctoral experience requirement in current § 41.31(c)(2) because that experience is part of the internship governed by the doctoral degree program necessary for graduation. Under amendments published in the *Pennsylvania Bulletin* at 36 Pa.B. 2680 (June 2, 2006), the Board no longer reviews specific doctoral education or internships, but rather considers only whether the program is accredited or designated.

§ 41.32—Experience qualifications.

In addition to the standards for supervisors in current § 41.32, the Board proposes adding timing requirements and specific responsibilities and prohibitions for primary and delegated supervisors.

The new text addresses repeated questions about the length of the experience. Under proposed paragraph (1)(i) and (iv), psychology residents will be required to obtain at least 12 months of experience consisting of at least 1,750 hours within 10 years of the application for licensure. At least half of the hours must be obtained within 5 years of the application. The proposed rulemaking would increase the total experience hours required from 1,500 hours to 1,750 hours to more accurately reflect the actual number of hours of experience that would be gained during the course of 1 year.

Regardless of the actual number of hours worked, under proposed paragraph (i)(ii), a psychology resident will only receive licensure credit for a maximum of 45 hours per week. Experience lasting less than 15 hours per week will not be credited. Experience hours less than the minimum or over the maximum amounts cannot be bundled with other hours to reach minimums. As is currently required, new paragraph (1)(ii) would require that 50% of the required experience hours must involve clinical practice—performing diagnosis, assessment, therapy or other interventions, supervision or consultation. The remaining 50% could be obtained in clinical practice, teaching psychologists in an organized psychology program or research.

The psychology resident may obtain the experience for more than one entity, as explained in proposed paragraph (1)(ii); however, for that experience to be credited for licensure, the psychology resident shall work for each entity for more than 6 months at a minimum of 15 hours per week, but no more than 45 hours per week total under the supervision requirements in proposed paragraph (3).

In addition to the time frames in paragraph (1), in order for the experience to be credited for licensure, proposed paragraph (2) would retain the current requirement that a psychology resident must practice at an entity that is consistent with the psychology resident's education and training but wherein the psychology resident does not act independently, for example, as a qualified member of another recognized profession.

New paragraph (3) delineates the supervisory requirements. Regardless of the number of settings where the experience is obtained, a psychology resident must have a primary supervisor at each setting. Similarly, as is currently required, paragraph (3)(ii) provides that the primary supervisor may delegate up to 1 hour per week of supervision to a delegated supervisor.

Proposed paragraph (3)(iii) delineates specific duties of primary and delegated supervisors. Duties currently in § 41.32(3)—(9) and (12)—(14) would be moved to subsection (c)(4), dealing with prohibitions on primary and delegated supervisors, and to paragraph (3)(v), which provided for additional duties of primary supervisors.

Proposed paragraph (3)(v) contains a new requirement that the primary supervisor practiced psychology for 2 years prior to commencing supervision and completed prescribed education in supervision prior to commencing supervision. The Board believes that this additional experience and training will be of value to both the supervisor and the psychology resident.

New paragraphs (4) and (6) replace current § 41.31(c)(3) and (5). Under new paragraph (4), in exceptional circumstances psychology residents who cannot comply with the supervisory requirements must submit a detailed written plan for supervision and obtain the Board's approval prior to implementing the supervisory plan. New paragraph (6) continues the requirement that psychology residents either continue to be supervised after obtaining their required hours or practice in an exempt setting until they receive their license.

New paragraph (5) is a transitioning provision. Applicants who commence their supervision within 6 months after the effective date of this proposed rulemaking will continue to have their supervision and experience evaluated under the regulations as they currently exist. Applicants who commence their supervision at any time after 6 months from publication in the *Pennsylvania Bulletin* will have their supervision and experience evaluated under these new regulations.

§ 41.41—Examinations.

New subsection (a) authorizes applicants to take the licensing examination after the degree requirements in § 41.31 are met. New subsections (c) and (d) were formerly found in § 41.31(a).

E. Fiscal Impact and Paperwork Requirements

The proposed amendments should have a positive fiscal impact on the Commonwealth because the Board should not have to return as many applications or seek additional clarification or supplemental information about the supervisor or the experience. Board members will continue to review applicants' experience; however, there are no additional costs associated with Board member review because that review is conducted at the end of the monthly Board meetings.

The proposed amendments should decrease paperwork required from applicants and supervisors.

F. Sunset Date

The Commission reviews the effectiveness of its regulations on an ongoing basis. Therefore, no sunset date has been assigned.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

H. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed amendments to Judith Pachter Schulder, Counsel, State Board of Psychology, Penn Center, 2601 North Third Street, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

KAREN W. EDELSTEIN, Psy.D.,
Chairperson

Fiscal Note: 16-A 6315. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 41. STATE BOARD OF PSYCHOLOGY

GENERAL

§ 41.1 Definitions.

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

* * * * *

Delegated supervisor—A currently licensed health professional or a person who is exempt from licensure under section 3(4)—(8) of the act (63 P. S. § 1203(4)—(8)), who possesses special expertise or skills to whom the primary supervisor has delegated up to 1 hour of the 2 hours of required weekly supervision.

* * * * *

Primary supervisor—A currently licensed psychologist having primary responsibility for directing and supervising the psychology resident.

* * * * *

Psychology intern—A student participating in an internship as part of a doctoral degree program in psychology or a field related to psychology.

Psychology resident—An individual who has obtained a doctoral degree and is fulfilling the supervised experience requirement for licensure, or an applicant for licensure who is continuing training under § 41.31(b)(4) (relating to educational qualifications).

Psychology trainee—[An individual who is fulfilling the supervised experience requirement for licensure, or an applicant for licensure who is continuing training under § 41.31(c)(5) (relating to qualifications for taking licensing examination)] A psychology intern or psychology resident.

* * * * *

QUALIFICATIONS

§ 41.30. Qualifications and documentation necessary for licensure.

(a) To qualify for licensure, an applicant shall complete the educational requirements in § 41.31 (relating to education qualifications), the experience requirements in § 41.32 (relating to experience qualifications) and the examination requirements in § 41.41 (relating to examinations).

(b) An applicant for licensure shall submit an application and fee to the Board with the following:

(1) Verification of postdoctoral experience and quarterly evaluations prepared during the course of supervision in a sealed envelope signed by the primary supervisors on the envelope flap.

(2) A criminal background check completed by the Pennsylvania State Police dated within 6 months of the application. If the applicant resides outside of the Commonwealth, the background check shall be completed by the applicable law enforcement agency in the jurisdiction where the applicant resides.

(3) Child Abuse History Clearance completed by the Pennsylvania Department of Public Welfare dated within 6 months of the application.

§ 41.31 [Qualifications for taking licensing examination] Educational qualifications.

[(a) Administrative procedures.

(1) Applications to take the licensing examination and instructions for applicants, including deadlines for filing, may be secured from the Board. If an applicant, without reasons satisfactory to the Board, fails to report for both the first examination and the one subsequent to it, the applicant's application will be considered to have been withdrawn. If the applicant wishes to take a future examination, a new application shall be submitted to the Board. The application will be reviewed on the basis of the law and the regulations existing at the time.

(2) An applicant who has been deemed ineligible to take the examination shall be notified in writing of the reasons for ineligibility, whereupon the applicant may within 30 days of the notice correct the causes for the ineligibility or file a request for reconsideration. A request for reconsideration shall give the reasons for the applicant's request, shall be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider, and may include a request for an informal interview before the Board.

(b) **Education.** Before an applicant seeking] To meet the education requirements for licensure under section 6 of the act (63 P. S. § 1206), an applicant shall [be permitted to take the licensing examination, the Board must be satisfied that the applicant has complied with] complete the requirements for a doctoral degree in psychology or a field related to psychology as defined in § 41.1 (relating to definitions). The following documentation evidences compliance:

* * * * *

(4) First-time applicants who [enroll] were enrolled in a graduate degree program in psychology or a field related to psychology on or after July 1, 2008, will be evaluated under this chapter. Applicants enrolled prior to July 1, 2008, will be evaluated under regulations in effect at the time of enrollment. Reapplicants under subsection (a)(1) or § 41.42(b) (relating to reexamination) will be evaluated under regulations in effect at the time of reapplication.

* * * * *

[(c) **Experience.** To meet the experience requirements for licensure under section 6 of the act (63 P. S. § 1206), an applicant shall submit evidence of having completed 2 years of supervised experience which trained the applicant for the independent practice of psychology. At least 1 year of this supervised experience shall be obtained subsequent to the granting of the doctoral degree. For purposes of calculating experience the Board has defined a year as 1,500 hours. All supervised experience must be acceptable to the Board. Acceptable predoctoral experience is limited to formal integrated internships—that is, internships which are integrated in terms of both the applicant's educational background and all aspects of the professional practice in which the applicant intends to engage.

(1) Postdoctoral experience.

(i) Experience acceptable to the Board means experience as a psychology trainee in a professional setting that is organized to prepare the applicant for the practice of psychology consistent with the applicant's education and training. At least one-half of the experience shall consist of providing services in one or more of the following areas: diagnosis, assessment, therapy, other interventions, consultation. Acceptable experience does not include the following:

(A) Independent private practice as a qualified member of another recognized profession under section 3(3) of the act (63 P. S. § 1203(3)).

(B) Independent private practice as a certified school psychologist under section 3(10) of the act.

(C) Practice as an independent contractor.

(ii) A psychology trainee shall, in every professional setting in which the trainee gains experience, be supervised by a psychologist holding a current license issued by this Board or by a statutory board of psychologist examiners of another state, if, in the opinion of the Board, the requirements for licensure are substantially equivalent to the requirements of the act.

(A) The supervisor shall own, be employed by or be in contract status with the professional setting in which the psychology trainee is employed.

(B) The supervisor shall be responsible for ensuring that the minimum requirements for acceptable supervised experience are met.

(C) Psychological activities of the psychology trainee shall be performed pursuant to the delegation, order and control of the supervisor, who shall accept full professional responsibility for the psychology trainee's performance. Accordingly, the ultimate responsibility for the welfare of the client/patient shall be in the hands of the supervising licensed psychologist.

(I) The supervisor may delegate clearly defined areas of the psychology trainee's supervision to other professionals affiliated with the professional setting whose competence in the delegated areas has been demonstrated by previous education, training and experience.

(II) Although the supervisor shall continue to bear the ultimate responsibility for the supervision, those to whom supervisory responsibilities are delegated shall be individually responsible for activities of the psychology trainee performed under their supervision.

(D) The supervisor shall ensure that clients/patients of the psychology trainee are aware of the trainee's status and of the supervisor's overall responsibility for the services they receive.

(E) The supervisor shall meet individually with the psychology trainee for an average of at least 2 hours a week. If the supervisor has delegated supervisory responsibilities to other professionals, 1 hour of this minimum may be allocated, at the direction of the supervisor, between or among them.

(F) Reports, records and other communications prepared by the psychology trainee for distribution outside the professional setting shall be signed by the trainee and countersigned as "reviewed and approved by" the supervisor or other delegated professional.

(G) A supervisor who is temporarily unable to provide supervision shall designate a qualified substitute and shall ensure that the psychology trainee's clients/patients are informed of the temporary substitution.

(H) A supervisor who wishes to terminate supervision during the training period shall give the trainee notice reasonably calculated to enable the trainee to obtain another qualified supervisor. In no event shall a supervisor terminate supervision when termination would result in abandonment of the trainee's clients/patients.

(I) The supervisor shall observe the standards in § 41.32 (relating to standards for supervisors) and ensure that those to whom supervisory responsibilities are delegated comply with these standards.

(iii) Supervised work activity will be counted toward satisfying the experience requirement only if it takes place in a single setting for either, first, at least 30 hours per week but no more than 40 hours per week during at least a 3-month period or, second, at least 15 hours per week for a period of at least 6 months. The experience shall have been obtained within the most recent 10 calendar years, at least half within the most recent 5 calendar years.

(2) *Predoctoral experience.* Predoctoral integrated internships shall meet the requirements in paragraph (1) and satisfy the following additional criteria:

(i) Upon entering the internship the psychology trainee shall have had supervised training for 450 or more hours.

(ii) During the internship the psychology trainee shall have a sequence of experiences designed to enhance professional attitudes, responsibilities and technical skills.

(iii) The psychology trainees shall participate in learning activities for an average of at least 2 hours per week, in addition to the supervision referred to in paragraph (1)(ii)(E).

(iv) The psychology trainee shall interact formally and informally with psychologists, other service providers and other trainees.

(v) The internship shall extend for a year and include at least 1,500 hours of experience with at least 25% of the time (375 hours) in direct client/patient contact and no more than 25% of the time in research, or the internship shall extend for 2 years half-time and meet the other requirements in this subparagraph.

(3) *Exception.* A psychology trainee who cannot make the supervisory arrangements required by this section may request the Board to approve a detailed written plan for supervision. The granting of such a request shall be at the Board's discretion. The Board will evaluate each plan submitted and each trainee's situation on a case-by-case basis.

(4) *Timing.* First-time applicants who commenced postdoctoral supervised experience prior to March 23, 1991, will have their postdoctoral experience credentials evaluated under regulations in effect at that time. Reapplicants under subsection (a)(1) or § 41.42(b) (relating to reexamination) will be evaluated under regulations in effect at the time of reapplication.

(5) *Continued training.* Applicants for admission to the Board's licensing examination may continue in training in a professional setting consistent with

good professional practice until they pass the examination. This continued training shall be supervised by a licensed psychologist, who shall be ultimately responsible for the psychological activities of the applicant. Applicants may also practice in settings exempted from the licensure requirement under section 3(4), (6), (8) and (10) of the act (63 P. S. § 1203(4), (6), (8) and (10)).]

§ 41.32. [Standards for supervisors] Experience qualifications.

To [ensure the quality of supervised experience, the Board requires that supervisors and those to whom supervisory responsibilities are delegated under § 41.31(c)(2)(iii)(A) (relating to qualifications for taking licensing examination) comply with the standards in paragraphs (1)—(19). Supervisors will be asked to attest to compliance on the verification of experience form which shall accompany the supervisee's application to take the Board's licensing examination. The Board reserves the right to require a supervisor by documentation or otherwise to establish to the Board's satisfaction that compliance occurred.] meet the experience requirements for licensure under section 6 of the act (63 P. S. § 1206), an applicant shall complete 1 year of acceptable postdoctoral supervised experience.

(1) *Timing.*

(i) One year is calculated as a period of at least 12 months consisting of at least 1,750 hours of experience.

(ii) No more than 45 hours but no less than 15 hours of experience may be counted per week.

(iii) Fifty percent of the required hours must be obtained performing diagnosis, assessment, therapy, other interventions, supervision or consultation and receiving supervision or consultation. The remaining required hours may be obtained by teaching in association with an organized psychology program preparing practicing psychologists or a postdoctoral training program, psychological research or any of the above categories.

(iv) The total experience must be obtained within 10 calendar years of the application for licensure. At least half must be obtained within the most recent 5 calendar years.

(v) The required experience may be obtained at more than one entity simultaneously, if the following criteria are met:

(A) The experience is obtained for each entity for a minimum of 6 consecutive months.

(B) The experience occurs for a minimum of 15 hours per week at each setting.

(C) The total experience for all settings does not exceed 45 hours per week.

(D) The experience complies with the supervision requirements in subsection (c).

(2) *Acceptable experience.*

(i) The practice at an entity in which experience is obtained must be consistent with the psychology resident's education and training.

(ii) Experience may not be obtained when the psychology resident acts independently (for ex-

ample, as a qualified member of another recognized profession under section 3(3) of the act (63 P. S. § 1203(3)).

(3) *Supervision.* Experience, including that obtained during consultation, must be obtained under the supervision of a primary supervisor.

(i) *Primary supervisors.* If the experience is obtained for more than one entity, the psychology resident shall obtain a primary supervisor for each entity.

(ii) *Delegated supervisors.* The primary supervisor may delegate supervision over the psychology resident to a delegated supervisor for up to 1 hour per week.

(iii) *Qualifications and duties of primary and delegated supervisors.* Primary and delegated supervisors are required to:

(A) Be currently licensed while providing supervision.

[(1) The supervisor shall be] (B) Be qualified by training and experience to practice in the [supervisee's] psychology resident's areas of supervised practice.

[(2) The supervisor shall be the owner of,] (C) Own, be an [employe] employee of, or be in contract status with the [professional setting] entity employing the [supervisee and may not be subject in any way to the supervisee's control or influence] psychology resident.

[(3) The supervisor shall be accessible to the supervisee for consultation.

(4) The supervisor shall be accessible to clients/patients of the supervisee for the purpose of answering questions and responding to concerns.

(5) The supervisor shall be responsible for the supervisee's services to each client/patient.

(6) The supervisor shall be empowered to interrupt or terminate the supervisee's activities in providing services to a client/patient and, if necessary, to terminate the supervisory relationship.

(7) The supervisor may not be a relative of the supervisee by blood or marriage, may not be involved in a dual relationship which obliges the supervisor to the supervisee and may not engage in treatment of the supervisee.

(8) The supervisor may not be the subject of a disciplinary action by a licensing board.

(9) The supervisor shall establish objectives to be achieved by the supervisee during supervision.

(10) The supervisor shall review] (D) Review issues of practice and ethics with the [supervisee] psychology resident.

(E) Meet individually face-to-face with the psychology resident for an average supervisory total of at least 2 hours per week.

[(11) The supervisor shall maintain] (F) Maintain notes or records of scheduled supervisory sessions until the psychology resident obtains a license or for at least 10 years, whichever is greater.

[(12) The supervisor shall observe client/patient sessions of the supervisee or review verbatim recordings of these sessions on a regular basis.

(13) In regularly scheduled supervisory meetings, the supervisor shall discuss the supervisee's level of work—for example, the supervisee's areas of competence and areas of needed improvement.

(14) The supervisor shall provide to the supervisee recommendations bearing on further development, shall encourage the supervisee to read widely in the professional literature and shall help the supervisee gain a level of skill necessary for independent practice.

(15) The supervisor shall prepare written evaluations or reports of progress which shall delineate the supervisee's strengths and weaknesses. These evaluations or reports shall be discussed with the supervisee on at least a quarterly basis.

(16) The supervisor shall encourage the supervisee to work with professionals in other disciplines as indicated by the needs of each client/patient and shall periodically observe these cooperative encounters.

(17) The supervisor may not accept fees, honoraria, favors or gifts from the supervisee.

(18) The supervisor shall ensure] (G) Ensure that the [supervisee's status as a] psychology [trainee] resident's status is made known to client/patients and to third-party payors.

[(19) The supervisor shall ensure that the supervisee has access to multidisciplinary consultation, as necessary.]

(iv) *Prohibitions on primary and delegated supervisors.* Primary and delegated supervisors may not:

(A) Be subject to the psychology resident's control or influence.

(B) Be related to the psychology resident by blood or marriage.

(C) Be involved in a dual relationship, as defined in Principle 6(b) of the Code of Ethics (See § 41.61, Principle 6(b) (relating to welfare of the consumer)), with the psychology resident.

(D) Treat or have treated the psychology resident.

(E) Be the subject of active discipline by a licensing board. In the event that disciplinary action is taken against the supervisor during the supervisory period, the supervisor shall immediately notify the psychology resident and assist the psychology resident in immediately obtaining a new supervisor.

(F) Accept fees, honoraria, favors or gifts from the psychology resident.

(v) *Additional responsibilities of primary supervisors.* In addition to the responsibilities for primary and delegated supervisors in subparagraph (iii), primary supervisors shall:

(A) Hold an active license to practice psychology for at least 2 years prior to commencing supervision and complete either a course in supervision from a psychology doctoral degree program or 3

hours of continuing education in supervision prior to the period of supervision.

(B) Develop with the psychology resident objectives to be achieved during supervision.

(C) Be accessible to the psychology resident for consultation and to clients/patients of the psychology resident to answer questions and respond to concerns.

(D) Be responsible to each client/patient for psychology services provided by the psychology residents.

(E) Be authorized to interrupt or terminate the services being provided by the psychology resident to a client/patient and, if necessary, to terminate the supervisory relationship.

(F) Observe client/patient sessions of the psychology resident or review verbatim recordings of these sessions on a regular basis.

(G) In regularly scheduled supervisory meetings, evaluate and apprise the psychology resident about areas of progress and needed improvement, recommend applicable professional literature and assist the resident in gaining a level of skill necessary for independent practice.

(H) Prepare written evaluations/progress reports at least quarterly delineating the psychology resident's strengths and weaknesses. These evaluations/reports shall be included with applicant's application for licensure.

(I) Assist the psychology resident in working with professionals in other disciplines as indicated by the needs of each client/patient and periodically observe these cooperative encounters.

(J) Ensure that the psychology resident has access to multidisciplinary consultation, as necessary.

(K) Monitor the supervision provided by any delegated supervisor.

(L) Review issues of practice and ethics with the psychology resident.

(M) At the conclusion of the period of supervision, evaluate the psychology resident's level of professional competence and theoretical knowledge in the areas of assessment, diagnosis, effective interventions, consultation, evaluation of programs, supervision of others, strategies of scholarly inquiry, cultural/individual diversity and professional conduct. This evaluation shall be signed and included as part of the verification of post doctoral experience submitted to the Board with the applicant's application for licensure.

(4) *Exceptional circumstances.* A psychology resident who cannot comply with the supervisory requirements, may, upon a showing of exceptional circumstances, request the Board to approve a detailed written plan for supervision. The granting of such a request is at the Board's discretion. The Board will evaluate each plan submitted and each psychology resident's situation on a case-by-case basis.

(5) *Effective date.* First-time applicants for licensure who commenced postdoctoral supervised experience prior to (Editor's Note: The blank refers to a date 6 months after the effective date of adoption of this proposed rulemaking.) will have

their postdoctoral experience credentials evaluated under regulations in effect prior to that date. Applicants who commence postdoctoral supervised experience after that date will have their postdoctoral experience evaluated under the regulations in effect at that time.

(6) *Supervised practice following completion of training.* Upon completion of the required supervisory hours, a psychology resident may practice psychology under the supervision of a licensed psychologist until the psychology resident obtains a license, under § 41.58 (relating to standards for the employment and supervision of unlicensed persons with graduate training in psychology) or may practice psychology in exempt settings under section 3(4), (6), (8) and (10) of the act (63 P. S. § 1203(4), (6), (8) and (10)).

EXAMINATIONS

§ 41.41. Examinations.

(a) To be eligible to take either portion of the licensure examination, the applicant shall have obtained a doctoral degree in psychology or a field related to psychology and completed all degree requirements set forth in § 41.31 (relating to educational qualifications).

(b) The licensure examination is composed of [a] two portions: the National Examination for Professional Practice in Psychology (EPPP) and [State portion] the Pennsylvania Psychology Law Examination (PPLE). Applicants shall obtain a passing score [to qualify for licensure] on each portion. Information about the contents of the examination is available from the Board office.

(c) If an applicant, without reasons satisfactory to the Board, fails to report for both the first examination and the one subsequent to it, the applicant's application will be considered to have been withdrawn. If the applicant wishes to take a future examination, a new application shall be submitted to the Board. The application will be reviewed on the basis of the law and the regulations existing at the time of submission.

(d) An applicant who has been deemed ineligible to take the examination will be notified in writing of the reasons for ineligibility, whereupon the applicant may correct the causes for the ineligibility and resubmit an application, or, within 30 days of the notice, file a request for reconsideration or an appeal under 2 Pa.C.S. §§ 501—507 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). A request for reconsideration must give the reasons for the applicant's request, must be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider, and may include a request for an informal interview before the Board.

[Pa.B. Doc. No. 09-801. Filed for public inspection May 1, 2009, 9:00 a.m.]

STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

[49 PA. CODE CH. 37]

Continuing Education

The State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) proposes to amend §§ 37.1, 37.17 and 37.18 (relating to definitions; schedule of examination fees; and reactivation of licensure status) and to add § 37.19 (relating to biennial renewal of licensure status) and §§ 37.111—37.115 (relating to continuing education), to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of the final-form regulations in the *Pennsylvania Bulletin*. The Board anticipates that licensees will first be required to complete continuing education during the September 1, 2009, through August 31, 2011, biennial renewal period.

Statutory Authority

This proposed rulemaking is authorized under sections 4(l) and 4.5(a) of the Engineer, Land Surveyor and Geologist Registration Law (act) (63 P. S. §§ 151.4(l) and 151.4.5 (a)).

Background and Need for the Amendment

Act 170 of 2006 added to the act section 4.5 regarding mandatory continuing education. Section 4.5(a) of the act (63 P. S. § 151.4.5(a)) requires licensees to complete 24 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal and requires the Board to promulgate regulations to enforce the continuing education requirement.

Description of the Proposed Amendments

Proposed § 37.1 (relating to definitions)

Existing § 37.1 would be amended to include definitions of additional terms used in the continuing education regulations. First, an hour of continuing education would be defined as 60 minutes of actual instruction in an approved course.

Section 4.5(e) of the act prohibits credit being given for any course in practice building, but the act does not define this term. Proposed § 37.1 would define the term "practice building" as marketing or any other activity having as its primary purpose increasing the business volume or revenue of a licensee or employer and does not involve the practice of engineering, land surveying or geology, as defined in section 2 of the act. However, section 2 of the act (63 P. S. § 149) defines the practice of land surveying to include "procuring or attempting to procure land surveying work" and managing any business that solicits or practices land surveying. The Board has included this activity, along with analogous activity by engineers or geologists, in the definition of "practice building."

Proposed § 37.17 (relating to schedule of fees)

Section 37.17 would be amended to provide that the fee to review an application for continuing education course approval, as described in proposed § 37.114 (relating to approval of continuing education courses) is \$100. The fee was determined as the amount necessary to recover the Board's cost of providing the service.

Proposed § 37.18 (relating to reactivation of licensure status)

The proposed rulemaking would amend § 37.18(1) to require that a licensee applying to reactivate licensure status include proof of completion of mandatory continuing education during the prior biennium. Because continuing education is generally required as a condition of renewal, a licensee who has not completed the mandatory continuing education may, without any penalty, permit his license and registration to become inactive until the licensee completes the required amount of continuing education. Proposed § 37.18(1) would permit of a licensee seeking reactivation to complete the required continuing education during the current biennium, an exception to the general rule of proposed § 37.111(b) regarding continuing education may satisfy the credit hour requirements only for the biennium in which it was completed. Notwithstanding proposed § 37.111(d) (licensee who fails to complete mandatory continuing education may renew but must pay a civil penalty and complete the required amount of continuing education within 6 months, providing to the Board proof of completion), reactivation would not be granted until the licensee completes the required continuing education of the prior biennium.

Proposed § 37.19 (relating to biennial renewal of licensure status)

The Board's current regulations do not include any provisions for biennial renewal of registration. The proposed rulemaking would add § 37.19 to set forth standard provisions for licensure renewal. Proposed § 37.19(a) would set the expiration date of each biennial renewal period as September 30 of each odd-numbered year and require licensees to renew each biennial period to be permitted to practice. Proposed § 37.19(b) would require a licensee to notify the Board of the licensee's current address and note that, although the Board will send renewal documentation to the address of record, it is the licensee's responsibility to renew the license. A licensee may renew online or submit a written, paper application for renewal. Proposed § 37.19(c) would require each licensee, in applying to renew, to complete and submit the application with the required fee, disclose any other license to practice engineering, land surveying or geology, and disclose any disciplinary action taken or pending in any other jurisdiction by an appropriate licensing authority.

Specific to continuing education, proposed § 37.19(c)(4) would require the licensee to verify that the licensee has complied with the continuing education requirements or acknowledge that the licensee will be subject to the sanctions of proposed § 37.114(d).

Proposed § 37.111 (relating to credit hour requirements)

The proposed rulemaking would add § 37.111 to set forth the general credit hour requirements. In proposed § 37.111(a), each licensee would be required to complete at least 24 hours of approved continuing education. A licensee who holds multiple licenses would have to complete the required amount of continuing education for each license. However, if a licensee completes continuing education that is appropriate to more than one licensure

class, the credit could be applied to all licenses for which the course is appropriate. Under proposed § 37.111(b), continuing education could only be applied to satisfy the requirement for the biennial period in which it was earned. However, credits made up in order to reactivate an expired license or upon Board order for missed credits may be applied to the prior biennium instead of the current biennium. Credit, of course, could not be applied more than once. Proposed § 37.111(c) would set the initial obligation to complete continuing education with the October 1, 2009, through September 30, 2011, biennial renewal period.

Under proposed § 37.111(d), a licensee who has not completed the required amount of continuing education would be required to pay a civil penalty under 49 Pa. Code § 43b.13a (related to schedule of civil penalties—engineers, land surveyors and geologists). The civil penalty schedule for continuing education violations (first offense) will be promulgated by the Commissioner of Professional and Occupational Affairs in a separate rule-making package. See 39 Pa.B. 2210 (May 2, 2009). Second or subsequent offenses will subject the licensee to discipline under section 4(g) of the act (63 P.S. § 151(g), which authorizes the Board to discipline a licensee for violating the act or a regulation of the Board. A licensee who did not complete the required amount of continuing education would be required to complete the entire amount of mandatory continuing education and provide the Board with proof within 6 months.

Section 4.5(c) of the act (63 P.S. § 151.4.5(c)) provides that a licensee may request a waiver of the continuing education requirement due to demonstrated hardship, such as serious illness or military service. The request must be in writing, with appropriate documentation attached, and show why the licensee is unable to comply with the continuing education requirement. The Board must consider each request on a case-by-case basis and notify the licensee in writing of its decision. Because the statute addresses all substantive requirements, proposed § 37.111(e) would only require that the request be submitted at least 90 days in advance of the end of the renewal period and note that the waiver may include extending the deadline to complete the required continuing education.

Proposed § 37.112 (relating to reporting completion of continuing education)

Under proposed § 37.112(a), a licensee could prove completion of a continuing education course through a certified continuing education record, as proposed § 37.115(a)(6) requires the provider to issue to the attendee. Proposed § 37.112(b) would require licensees to maintain proof of completion of the continuing education for 5 years. In proposed § 37.112(c), the Board announces that it will verify compliance with the continuing education requirements by auditing licensees.

Proposed § 37.113 (relating to credit for approved continuing education)

Proposed § 37.113 sets forth the types of courses for which a licensee may obtain credit. Under proposed § 37.113(a), credit is only available for courses either preapproved by the Board under proposed § 37.114(a) (application not required) or explicitly approved by the Board. Proposed § 37.113(b) would permit credit for continuing education in any course on any subject matter falling within the definitions of the practice of engineering, land surveying or geology in section 2 of the act, as appropriate to the license. As prohibited by section 4.5(e)

of the act, credit may not be earned in any course in practice building or office management. Under proposed § 37.113(c), credit may be awarded to an attendee for only one presentation of a particular course during a given renewal period. However, proposed § 37.113(d) would permit an instructor of continuing education to receive credit for attending the course and also to receive credit for preparing for the course—not to exceed the amount of credit available for attending. Proposed § 37.113(e) would prohibit continuing education credit for authoring an article, participating in a professional society or obtaining a patent.

Proposed § 37.114 (relating to approval of continuing education courses)

Section 4.5(e) of the act requires that “all courses, locations, instructors and providers of mandatory continuing education shall be approved by the Board.” The Board anticipates that, for its approximately 37,000 licensees each taking 24 hours of continuing education in each renewal period, between 7,500 and 10,000 courses, will be offered for licensees each year. Because the Board does not have the resources to evaluate in full this large a number of courses in advance, while still complying with the statutory commandment to approve courses and the like, proposed § 37.114(a) would relieve from the obligation to apply for approval courses offered by various pre-approved providers, so long as the course is in appropriate subject matter and the course provider issues to each attending licensee a certified continuing education record. The list of preapproved courses/providers includes: advanced level courses offered by those programs whose graduates would qualify to sit for the various licensure examinations; graduate level courses in engineering, land surveying or geology; courses offered by accredited colleges or universities that are designed for continuing education, rather than qualification for licensure; courses offered by providers certified by an organization approved by the United States Department of Education to certify providers of continuing education; courses offered or approved by professional licensing authorities or organizations of professional licensing authorities; courses offered by agencies of the Federal government; courses offered by agencies of the various state governments; courses offered by the various professional societies; and courses offered by organizations recognized in their field to set standards of design, construction or practice. It must be kept in mind that, as provided in proposed § 37.113, credit may be obtained only for courses in subject matter within the scope of practice of engineering, land surveying or geology, as appropriate to the license.

Proposed § 37.114(b) would provide a safety valve and permit any course offered by a provider who is not preapproved to be reviewed and approved by the Board.

Proposed § 37.115 (relating to approval of continuing education courses upon application)

Proposed § 37.115 sets forth the process for Board approval of courses of continuing education, which includes approval of the location, instructor and provider, for those courses and providers that are not preapproved, as well as the obligations of providers whose courses are approved by the Board upon application. Proposed § 37.114(b) would require the filing of a completed application and payment of the required fee for Board review of the course.

Under proposed § 37.115(b), a separate application would be required for each course, including multiple presentations at various locations and multiple offerings.

Significant changes to the course content or change of instructors would require Board additional approval. If the location of a course is essential to presentation of course content, such as certain geology courses, a change in the location is a significant change in the course, and the provider must again seek approval.

Under proposed § 37.115(c), the Board notes its authority to deny course approval when the provider has previously failed or is not currently able to comply with the provider responsibilities of proposed § 37.115(e) or the course does not qualify under proposed § 37.113. The Board may deny approval when the course or application does not comply with the act or the Board's regulations. The Board may approve a portion of a course and deny the balance, that is, approve a course for fewer hours than sought by the applicant.

If an applicant has made false statements or grounds for denial later appear under proposed § 37.115(d) the Board would be able to terminate its prior approval of a course. A licensee who has completed a course prior to termination of the Board's approval would not lose that credit.

Proposed § 37.115(e) would set forth the responsibilities for providers of continuing education whose courses are approved by the Board upon application. A provider would be required to disclose in advance to prospective students the objectives, content, teaching method and the number of hours of continuing education credit approved by the Board; provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used; provide accurate instructional materials; utilize qualified instructors who are knowledgeable in the subject matter; evaluate the program through the use of questionnaires of the participants and instructors; issue a certified continuing education record to each participant; and retain attendance records, written outlines, and a summary of evaluations for 5 years. A provider would be required to include in the continuing education record the name of the participant, the name of the provider, the date or dates of the course, the name and any Board issued approval number of the course, and the number of hours of continuing education credit.

Under proposed § 37.115(f), the Board will maintain a list of approved courses in a form accessible to licensees and the public.

Because a provider might not seek Board approval for a course that is not preapproved, but a licensee attending the course might want credit, proposed § 37.115(g) would permit a licensee to apply for course approval and to do so after the course has been given. When more than one attendee of a course applies for approval, the Board will consolidate the applications and will not collect more than one fee for that review.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-ENGINEER@state.pa.us, within 30 days of publication of this proposed rulemaking in the Pennsylvania Bulletin. Reference No. 16A-4710 (continuing education), when submitting comments.

ROBERT C. GRUBIC, P. E., PLS,
President

Fiscal Note: 16A-4710. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 37. STATE REGISTRATION BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS AND GEOLOGISTS

GENERAL PROVISIONS

§ 37.1. Definitions.

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

* * * * *

Hour of continuing education—Sixty minutes of actual instruction in an approved course of continuing education.

Practice building—Marketing or any other activity that has as its primary purpose increasing the business volume or revenue of a licensee or employer and does not involve the practice of engineering, land surveying or geology as defined in section 2 of the act (63 P. S. § 149).

(i) The term includes "procuring or offering to procure land surveying work for himself or others; managing or conducting as managers, proprietors or agent any place of business from which land surveying work is solicited, performed, or practiced" as included in the definition of "practice of

land surveying" in section 2(d) of the act. The term includes procuring or offering to procure engineering or geologist work for himself or others; managing or conducting as managers, proprietors or agent any place of business from which engineering or geologist work is solicited, performed or practiced.

(ii) The term does not include education in a professional area merely because it would expand the licensee's skills enabling the licensee to practice in an additional area.

* * * * *

QUALIFICATIONS FOR LICENSURE

§ 37.17. Schedule of fees.

* * * * *

(c) Other fees. The Board will charge the following fees:

Application for continuing education course approval \$100

* * * * *

§ 37.18. Reactivation of licensure status.

A licensed engineer, land surveyor or geologist who has allowed his licensure status to lapse by failing to register biennially with the Board may apply to the Board for reactivation of licensure status by satisfying the requirements of paragraph (1) on forms prescribed by the Board.

(1) A licensee applying for reactivation of licensure status is required to pay the current registration fee and submit a [notarized affidavit setting forth] reactivation application verifying the period of time in which the licensee did not practice in this Commonwealth. An application for reactivation must also include the documentation required under § 37.112 (relating to reporting completion of continuing education) for those courses sufficient to satisfy the requirement for the immediately preceding biennium, and those courses may be completed during the current biennium. Unless excused by the Board for good cause under section 4.5(c) of the act (63 P. S. § 151.5(c)), the Board will not reactivate any license until the required continuing education for the preceding biennium has been completed.

* * * * *

§ 37.19. Biennial renewal of licensure status.

(a) A licensee shall register each biennial period to retain the right to practice in this Commonwealth. Initial registration shall automatically occur when a license is issued. Registration for a biennial period shall expire on September 30 of every odd numbered year.

(b) If a licensee changes the mailing address of record, the licensee shall notify the Board in writing within 10 days thereafter. Notice of renewal will be forwarded to the licensee's last known address on file with the Board. Failure of the Board to send or of the licensee to receive a biennial registration application does not relieve the licensee of the biennial registration responsibility.

(c) A licensee applying for biennial license renewal shall:

(1) Complete and submit the renewal application, including payment of the biennial renewal fee as set forth in § 37.17 (relating to schedule of fees).

(2) Disclose any license to practice engineering, land surveying or geology in another state, territory, possession or country.

(3) Disclose any disciplinary action taken or pending before the appropriate licensing authority in any other jurisdiction since the most recent application for renewal. A licensee shall disclose disciplinary action in another jurisdiction whether or not the licensee holds an active license to practice in the other jurisdiction.

(4) Disclose any pending criminal charges and any finding or verdict of guilt, admission of guilt, plea of *nolo contendere*, or other criminal conviction since the most recent application for renewal.

(5) Verify that the licensee has complied with the continuing education requirements mandated by section 4.5 of the act (63 P. S. § 151.5) during the biennial period immediately preceding the period for which renewal is sought in accordance with §§ 37.111—37.115 (relating to continuing education) or acknowledge that the licensee will be subject to the sanctions under § 37.111(d) (relating to credit hour requirements).

CONTINUING EDUCATION

§ 37.111. Credit hour requirements.

(a) During each biennial renewal period, a licensee shall complete 24 hours of continuing education. A licensee who holds more than one license from the Board shall complete the required hours of continuing education to renew each license. A licensee who completes a course applicable to more than one class of license may apply the credit to each license held by the licensee for which the course is applicable.

(b) Except as necessary to comply with § 37.18(1) (relating to reactivation of licensure status), as permitted under subsection (d), or as directed by the Board, continuing education may satisfy the requirement of subsection (a) only for the biennium during which it was completed. No hour of continuing education may be used to satisfy the requirement of subsection (a) for more than one biennium.

(c) The requirement of subsection (a) will first take effect as follows:

(1) During the October 1, 2009, through September 30, 2011, biennial renewal period, a licensee shall complete 24 hours of continuing education.

(2) During each biennial renewal period subsequent to September 30, 2011, a licensee shall complete 24 hours of continuing education.

(d) Unless otherwise excused by the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 11(b) of the act (63 P. S. § 158(b)) in accordance with the schedule of civil penalties in § 43b.13a (relating to schedule of civil penalties—engineers, land surveyors and geologists). Within 6 months after the end of the renewal period for which the required amount of continuing education was not completed, the licensee shall make up the deficiency and provide proof of the entire required amount of continuing education as set forth in § 37.112 (relating to reporting completion of continuing education). In addition to any

civil penalty assessed under this subsection, failure to provide the Board with proof of the required amount of continuing education within 6 months after the beginning of a biennial period for which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 4(g) of the act (63 P. S. § 151(g)). Failure to complete the required amount of continuing education within 6 months after the beginning of a biennial period for which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 4(g) of the act.

(e) A licensee seeking waiver of the continuing education requirements under section 4.5(c) of the act (63 P. S. § 151.5(c)) shall submit the request with all supporting documentation to the Board at least 90 days prior to end of the renewal period for which waiver is sought. Waiver may include extending the deadline by which the required continuing education must be completed.

§ 37.112. Reporting completion of continuing education.

(a) Proof of completion of a course of continuing education shall consist of a certified continuing education record issued by the course provider, including:

(1) The name of the participant.

(2) The name of the provider.

(3) The date or dates of the course.

(4) The name and any Board issued approval number of the course.

(5) The number of hours of continuing education or academic credit.

(b) A licensee shall retain proof of completion of continuing education for 5 years after completion of the continuing education or after the completion of the renewal period during which the continuing education was required, whichever is later.

(c) The Board will audit licensees to verify compliance with continuing education requirements.

§ 37.113. Credit for approved continuing education.

(a) Credit for continuing education will be granted only for courses exempt from approval under § 37.114(a) (relating to approval of continuing education courses) or approved by the Board under § 37.114(b).

(b) Unless limited by this section, continuing education credit may be earned in a course on any subject matter falling within the definitions of the practice of engineering, land surveying or geology in section 2 of the act (63 P. S. § 149), as appropriate to the license. Continuing education credit may not be earned in courses in practice building or office management.

(c) A licensee may not receive credit for more than one presentation of a particular course in a given renewal period.

(d) A licensee teaching a course of continuing education may receive the same credit that a licensee attending the course would receive and may

also receive credit for time spent in preparation. Credit for time spent in preparation may not exceed the credit available for a licensee attending the course.

(e) No continuing education credit may be received for authoring an article, participating in a professional society or obtaining a patent.

§ 37.114. Approval of continuing education courses.

(a) The following continuing education courses, provided they otherwise meet the requirements of § 37.113 (relating to credit for approved continuing education) and the course provider issues to each attending licensee a certified continuing education record in accordance with § 37.112(a) (relating to reporting completion of continuing education), are exempt from the approval requirement:

(1) A junior/senior or above level course offered as part of a program that satisfies the educational requirements for licensure under § 37.31(1)(i) or (ii), § 37.36(1), or § 37.47(1)(i) or (ii) (relating to eligibility for certification or licensure, or both; eligibility for licensure; and eligibility for certification or licensure, or both).

(2) A graduate course offered as part of an engineering, land surveying or geology program of an accredited college or university.

(3) A course offered by an accredited college or university that offers a program that satisfies the educational requirements for licensure under §§ 37.31(1)(i) or (ii), 37.36(1) or 37.47(1)(i) or (ii) that is designed for continuing education and not for the educational program required for licensure.

(4) A course offered by a provider certified by an organization approved by the United States Department of Education to certify providers of continuing education.

(5) A course offered or approved by a professional licensing authority or National organization of professional licensing authorities or affiliate.

(6) A course offered by an agency of the United States government.

(7) A course offered by an agency of the government of a state or territory of the United States or the District of Columbia.

(8) A course offered by a National professional society or affiliate or subsidiary.

(9) A course offered by a Statewide professional society or affiliate or subsidiary.

(10) A course concerning the standards it sets by an association or other organization or its affiliate or subsidiary that is recognized in its field to set standards for design, construction, or other aspect of professional practice.

(b) The following continuing education courses are approved:

(1) A course approved by the Board under § 37.115(a)–(f) (relating to approval of continuing education courses upon application) upon application of the provider.

(2) A course approved by the Board under § 37.115(g) upon application of an attending licensee.

§ 37.115. Approval of continuing education courses upon application.

(a) A provider of continuing education other than those in § 37.114(a) (relating to approval of continuing education courses) seeking approval of a course of continuing education shall apply for approval on forms provided by the Board and shall provide the information required by those application forms for the Board to fulfill its duties under this section. The application shall be submitted to the Board with payment of the fee as required in § 37.17 (relating to schedule of fees).

(b) A provider shall apply for approval of each course of continuing education, which may include multiple presentations of the course at various locations and multiple offerings of the course. Prior to making any significant change in course content or using instructors other than those described in the provider's approved continuing education application, the provider shall obtain approval from the Board for the proposed changes. If the location is essential to presentation of the course content, any change in location constitutes a change in the course, and approval must again be sought from the Board.

(c) The Board may deny approval of a course of continuing education when the provider has previously failed or is not currently able to comply with the provider responsibilities of subsection (f) or the course does not qualify under § 37.113 (relating to credit for approved continuing education). The Board may approve in part and deny in part an application for approval of a course. The Board may deny an application for course approval that does not comply with the act or this chapter.

(d) The Board may terminate its prior approval of a course of continuing education when the applicant made one or more false or misleading material statements on the application. The Board may also terminate in part or in whole its prior approval of a course when it is later determined that the Board has grounds to deny approval in accordance with this section. Termination of approval will not forfeit credit for a course completed prior to termination of approval.

(e) For each course of continuing education, the provider shall:

(1) Disclose in advance to prospective attendees the objectives, content, teaching method and the number of hours of continuing education credit approved by the Board.

(2) Provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used.

(3) Provide accurate instructional materials.

(4) Utilize qualified instructors who are knowledgeable in the subject matter.

(5) Evaluate the program through the use of questionnaires of the participants and instructors.

(6) Issue a certified continuing education record to each participant.

(7) Retain attendance records, written outlines, and a summary of evaluations for 5 years.

(f) The Board will maintain a list of approved courses in a form accessible to licensees and the public.

(g) If a course is not exempt from approval under § 37.114(a) and the provider has not separately sought approval under subsections (a)—(f), a licensee attending the course may apply for approval of a course of continuing education as set forth in subsection (a). An attendee may seek approval after completion of the course, though the Board may deny approval as otherwise provided in this subchapter. The Board may waive the requirements of subsections (b) and (e) when a licensee attending a course applies for approval. The Board will not collect more than one fee from attendees for review of applications for approval of the same course.

[Pa.B. Doc. No. 09-802. Filed for public inspection May 1, 2009, 9:00 a.m.]
