

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [ 4 PA. CODE CH. 9 ]

#### Reorganization of the Governor's Office of Administration

The Executive Board approved a reorganization of the Governor's Office of Administration effective September 3, 2010.

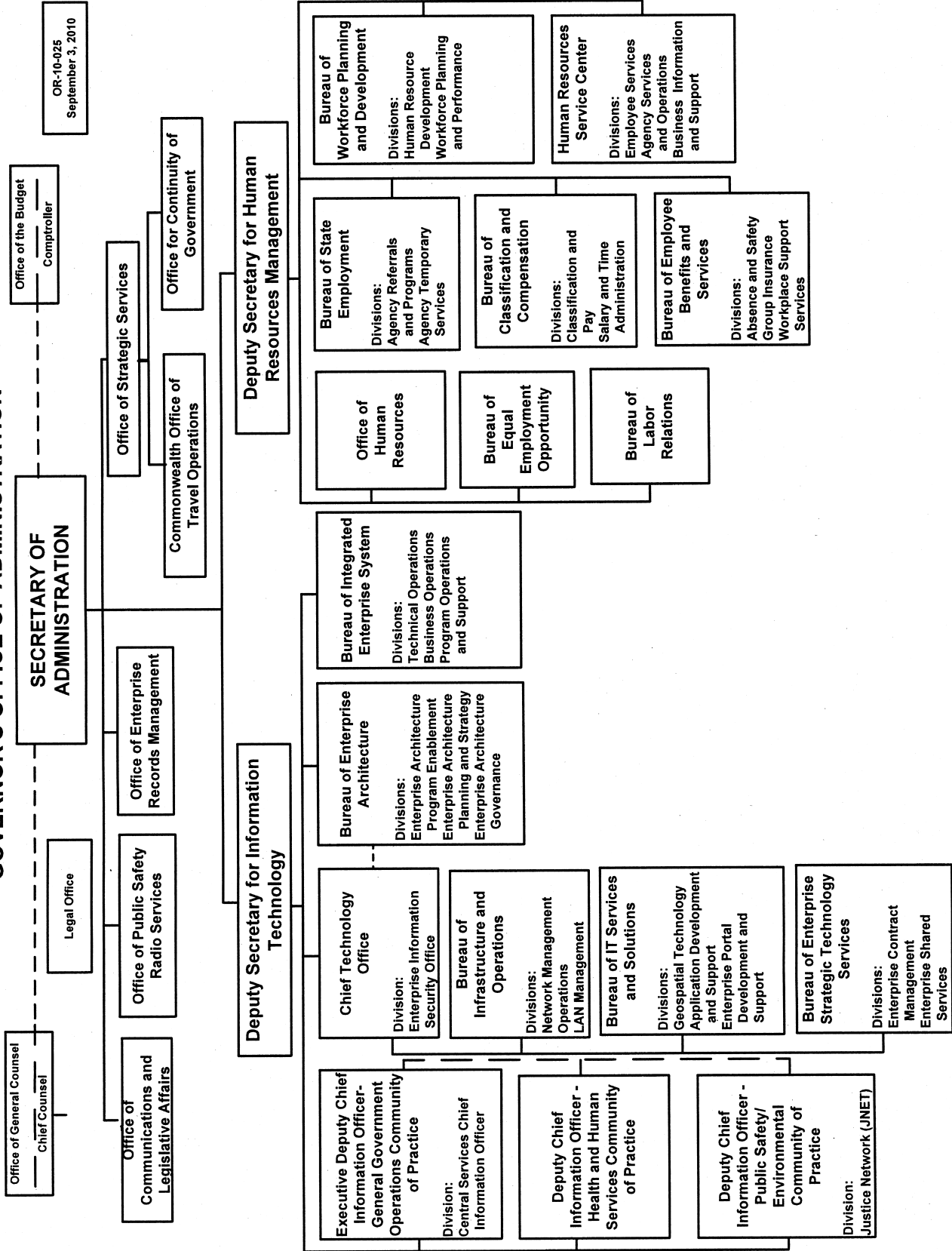
The organization chart at 40 Pa.B. 5477 (September 25, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 10-1836. Filed for public inspection September 24, 2010, 9:00 a.m.]

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GOVERNOR'S OFFICE OF ADMINISTRATION



OR-10-025  
September 3, 2010

# Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

## BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

[ 49 PA. CODE CH. 43b ]

### Schedule of Civil Penalties; Massage Therapists

The Commissioner of Professional and Occupational Affairs (Commissioner) adds a statement of policy setting forth a schedule of civil penalties in § 43b.23 (relating to schedule of civil penalties—massage therapists—statement of policy) to read as set forth in Annex A.

#### *Effective Date*

The statement of policy will offer guidance on the civil penalties to be imposed against massage therapists and unlicensed individuals practicing massage therapy. It will be effective upon publication.

#### *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 and commissions in the Bureau of Professional and Occupational Affairs (Bureau), to adopt a schedule of civil penalties, guidelines for their imposition and procedures for appeal for: (1) operating without a current and valid license, registration, certificate or permit; and (2) violating an act or regulation of a licensing board or commission regarding the conduct or operation of a business or facility licensed by the board or commission. Act 48 further provides that the Commissioner may publish the schedule of civil penalties as a statement of policy provided that it is promulgated as a regulation within 2 years.

#### *Background and Purpose*

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 boards and commissions. 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 sanctions imposed by the boards and commissions being accomplished through the Act 48 citation process.

The State Board of Massage Therapy (Board) was first confirmed in July 2009 and began meeting to establish regulations that would enable licensure of massage therapists. The Board determined that it should utilize the Act 48 citation process to decrease costs to its licensees and more efficiently conduct its duties. The Commissioner and the Board determined that the schedule of civil penalties should first be published as a statement of policy to coincide with the publication of the Board's final-form rulemaking effectuating the Massage Therapy Law (63 P. S. §§ 627.1—627.50) to be followed within 2 years by the promulgation of a regulation, as required by Act 48.

#### *Description*

The statement of policy establishes a schedule of civil penalties for the failure to display a current license or wallet card, failure to include massage therapy license number in advertisements, failure to display the massage therapist's name and title, failure to hold current certification to administer CPR, failure to complete mandatory continuing education, holding oneself out as a massage therapist while unlicensed, holding oneself out as a licensed massage therapist while the license is expired and practice on an expired license.

#### *Fiscal Impact and Paperwork Requirements*

The statement of policy has no adverse fiscal impact on the Commonwealth or its political subdivisions and reduces 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 and commission to be self-supporting; therefore, boards and commissions continually monitor the cost effectiveness of policies and regulations affecting their operations. As a result, a sunset date has not been assigned. However, it is anticipated that this statement of policy will be replaced by a regulation to be promulgated within 2 years.

BASIL L. MERENDA,  
*Commissioner*

*(Editor's Note:* Title 49 of the Pa. Code is amended by adding a statement of policy in § 43b.23 to read as set forth in Annex A.)

**Fiscal Note:** 16A-53. 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.23. Schedule of civil penalties—massage therapists—statement of policy.

## STATE BOARD OF MASSAGE THERAPY

<i>Violation under 63 P. S.</i>	<i>Violation under 49 Pa. Code Chapter 20</i>	<i>Title/Description</i>	<i>Civil Penalty</i>
	§ 20.42(a)(14)	Failure to display current license or wallet card.	First offense—\$50 Second and subsequent offenses—\$250
	§ 20.42(a)(15)	Failure to include massage therapy license number in advertisements.	First offense—\$50 Second and subsequent offenses—\$250
	§ 20.42(a)(16)	Failure to display name and title.	First offense—\$50 Second and subsequent offenses—\$250
§ 627.6(b)(i)		Failure of to hold current certification to administer CPR.	First offense—\$50 Second offense—\$250 Subsequent offense—formal action
§ 627.6(b)(ii)		Failure to complete 24 hours of continuing education courses approved by the Board during the 24 months preceding license renewal.	First offense—\$100 per credit hour Second offense—formal action
§ 627.14		Holding oneself out as a massage therapist or practicing massage therapy while unlicensed.	First offense—\$500 Second offense—formal action
§ 627.14(b)		Holding oneself out as a licensed massage therapist while license is expired.	0—6 months—warning 7—12 months—\$250 13—18 months—\$500 19—24 months—\$1,000 More than 24 months—formal action
§ 627.14(e)		Practicing massage therapy on an expired license.	0—6 months—warning 7—12 months—\$250 13—18 months—\$500 19—24 months—\$1,000 More than 24 months—formal prosecution

[Pa.B. Doc. No. 10-1837. Filed for public inspection September 24, 2010, 9:00 a.m.]