

RULES AND REGULATIONS

Title 37—LAW

MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

[37 PA. CODE CH. 221]

Retired Law Enforcement Officers Identification and Qualification Cards

The Municipal Police Officers' Education and Training Commission (Commission) amends §§ 221.21, 221.31, 221.34 and 221.35 to read as set forth in Annex A.

Effective Date

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

Statutory Authority

This final-omitted rulemaking is authorized under section 7 of the Retired Law Enforcement Identification Act (act) (53 P. S. § 753.7).

Submission as Final-Omitted Rulemaking

These amendments were submitted as a final-omitted rulemaking under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL), because the persons affected are certain retired law enforcement personnel who are generally aware of and in favor of the amendments. Moreover, the amendments do not alter eligibility requirements for retired officers who are already eligible, but rather broadens eligibility for retired or separated officers to carry a concealed firearm under the Law Enforcement Officers Safety Act of 2004 (LEOSA). While not required, notice will be given to certain major groups representing retired law enforcement, including the State Fraternal Order of Police.

Background and Need for the Final-Omitted Rulemaking

In 2004, sections 2 and 3 (18 U.S.C.A. §§ 926B and 926C), known as LEOSA, were added to the Federal Gun Control Act of 1968. LEOSA authorizes qualifying state and local police to carry their firearms throughout the United States by pre-empting most state laws. This privilege is also extended to qualified retired law enforcement officers provided they possess appropriate identification and qualify with the firearm they carry. Commonwealth law did not provide for identification cards or qualification cards for retired police. Therefore, the act was enacted to provide a uniform system for the identification and qualification of eligible retired officers in light of the Federal enactment related to these individuals.

The Commission was given the responsibility to administer the act and to promulgate regulations. The regulations mirror the original eligibility requirements for retired officers in LEOSA. However, LEOSA was amended in 2010, including changing the requirements for a retired officer to be eligible to carry a concealed firearm. The amendments to §§ 221.21 and 221.31 (relating to eligibility) are necessary to bring them into conformance with the 2010 amendments to LEOSA, specifically changes to section 3, regarding carrying of concealed firearms by qualified retired law enforcement officers.

Sections 221.21 and 221.31 formerly tracked the pre-2010 LEOSA definition of a "qualified retired law enforcement officer." The 2010 amendment to the definition

primarily served to change references in section 3 of the LEOSA from "retired" to "separated," reduced the required years of service from 15 years to 10 years, completely replaced the requirement to have certain rights to benefits in a retirement plan and added a subsection regarding mental health findings. The amendments also revised other sections, including language pertaining to firearms qualifications.

For the sake of consistency and clarity, the Commission believes that the regulations should be amended to reflect the 2010 amendments to LEOSA. This will serve to make the regulations consistent, as they already define a retired law enforcement officer in § 221.2 (relating to definitions) as a "qualified retired law enforcement officer as defined in 18 U.S.C. § 926C(c) (relating to carrying of concealed firearms by qualified retired law enforcement officers)." This is also the definition used in section 3 of the act (53 P. S. § 753.3). The amendment will also further the intent of the original legislation, which was enacted to specifically address the Federal mandate. See section 2 of the act (53 P. S. § 753.2).

The Commission believes that issuance of identification cards to Federally eligible individuals will be furthered by amending the regulations and removing ambiguity.

The other amendments in this final-omitted rulemaking are designed to correct minor typographical errors in the existing regulations.

Description of the Final-Omitted Rulemaking

Sections 221.21 and 221.31 are amended to be consistent in all respects with section 3 of LEOSA. This is accomplished by amending these sections to track the current Federal law by specifically referencing the definition of "retired law enforcement officer." Section 221.21 has been amended by deleting paragraphs (1)—(5) and stating the individual must meet the definition of "retired law enforcement officer." Section 221.31 was also amended to include a similar requirement and language was added to renumbered paragraph (3)(iii) and (iv).

The amendments to §§ 221.34(b) and 221.35 (relating to replacement; error or change in material information; and challenge to issuance of qualification card) correct typographical errors.

Fiscal Impact and Paperwork Requirements

The final-omitted rulemaking will not have adverse fiscal impact on the Commonwealth, its political subdivisions or the regulated community.

The final-omitted rulemaking will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the regulated community.

Contact Person

Further information is available by contacting the Director, Training and Curriculum Development Section, Municipal Police Officers' Education and Training Commission, State Police, 8002 Bretz Drive, Harrisburg, PA 17112, (717) 346-7755, fax (717) 346-7782.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on October 10, 2014, the Commission submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and Senate

Committees on Law and Justice. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on November 12, 2014, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 20, 2014, and approved the final-omitted rulemaking.

Findings

The Commission finds that:

(1) Public notice of the Board’s intention to amend its regulations under the procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) has been omitted under the authority of section 204 of the CDL because public comment is unnecessary.

(2) The amendment of the Commission’s regulation in the manner provided in this order is necessary and appropriate for the administration of the act.

Order

(a) The regulations of the Commission, 37 Pa. Code Chapter 221, are amended by amending §§ 221.21, 221.31, 221.34 and 221.35 to read as set forth in Annex A.

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

(c) The Chairperson of the Commission shall submit this order and Annex A to the House and Senate Committees and IRRC as required by law.

(d) The Chairperson of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

COLONEL FRANK NOONAN,
Chairperson

(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 7622 (December 6, 2014).)

Fiscal Note: 17-76. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART IV. MUNICIPAL POLICE OFFICERS’ EDUCATION AND TRAINING COMMISSION

Subpart B. RETIRED LAW ENFORCEMENT IDENTIFICATION AND QUALIFICATION

CHAPTER 221. RETIRED LAW ENFORCEMENT OFFICERS IDENTIFICATION AND QUALIFICATION CARDS

Subchapter B. RETIRED LAW ENFORCEMENT IDENTIFICATION CARDS

§ 221.21. Eligibility.

An identification card shall only be issued to an individual who meets the definition of a retired law enforcement officer.

Subchapter C. QUALIFICATION CARD

§ 221.31. Eligibility.

An individual shall be eligible for a qualification card if the individual meets all of the following conditions:

(1) Resides in this Commonwealth.

(2) Meets the definition of a retired law enforcement officer.

(3) Prior to each annual qualification, completes a Pennsylvania Retired Officer Concealed Carry Acknowledgement, on a form prescribed by the Commission, attesting to all of the following, subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) and meets the following conditions:

(i) The applicant intends to fire and carry a revolver, semiautomatic or automatic weapon.

(ii) The applicant is a retired law enforcement officer.

(iii) The applicant retired or separated in good standing, specifying the public agency, city and state from which the applicant retired or separated.

(iv) The applicant did not retire or separate for reasons of mental instability.

(v) The applicant is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(vi) The applicant will not carry a firearm while under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(vii) The applicant is not prohibited by Federal or State law from receiving or possessing a firearm.

(viii) The applicant understands and acknowledges that the definition of a firearm does not include any machine gun, firearms silencer, destructive device or prohibited offensive weapon.

(ix) The applicant understands and acknowledges that the person shall meet the Commonwealth’s standards for training and qualification for active law enforcement officers to carry a firearm of the same type as the applicant’s concealed weapon.

(x) The applicant understands and acknowledges that when carrying the concealed weapon, the applicant shall carry Pennsylvania’s qualification card, along with the identification card issued under § 221.23 (relating to identification card issuance) or identification issued by another public agency satisfying the requirements of 18 U.S.C. § 926C(d) (relating to carrying of concealed firearms by qualified retired law enforcement officers).

(xi) The applicant understands and acknowledges that the qualification card expires 12 months from the date of issue and it is the applicant’s responsibility to reapply if the applicant wants to continue to carry the weapon under the act and this chapter.

(xii) The applicant understands and acknowledges that this authorization applies only to the type of weapon with which the applicant qualified.

(xiii) The applicant understands and acknowledges that Pennsylvania’s certification does not give him any right whatsoever to exercise law enforcement authority or take police action under any circumstances.

(xiv) The applicant understands and acknowledges that a background investigation is required and authorizes one to be conducted to determine if the applicant has been convicted of any criminal offenses or has any mental

health issues that would disqualify the applicant from possessing a concealed weapon.

(xv) The applicant has not been charged with nor convicted of any felony or misdemeanor in this Commonwealth or any similar offenses under any other State or Federal law that would prohibit the applicant from possessing a firearm.

§ 221.34. Replacement; error or change in material information.

(a) *Replacement.* If a qualification card is lost, stolen, destroyed, mutilated or becomes illegible, the retired law enforcement officer may obtain a replacement qualification card upon request to the certified law enforcement firearm instructor and payment of the required fee.

(b) *Error or change in information.* If any information on a qualification card has changed, or is in error, from the information originally set forth, the retired law enforcement officer shall apply to the certified law enforcement firearm instructor and submit the required fee, for a new qualification card within 15 days of the change or discovery of the error. A fee will not be charged if the certified law enforcement firearm instructor caused the error to occur.

§ 221.35. Challenge to issuance of qualification card.

The Commission will have standing to contest issuance of any qualification card subject to §§ 203.101—203.103 (relating to notice and hearings).

[Pa.B. Doc. No. 14-2504. Filed for public inspection December 5, 2014, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

Pharmacy Internship

The State Board of Pharmacy (Board) amends § 27.26 (relating to pharmacy internship) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The final-form rulemaking is authorized under sections 3(c) and 6(k)(9) of the Pharmacy Act (act) (63 P.S. §§ 390-3(c) and 390-6(k)(9)).

Background and Purpose

Section 3(c) of the act requires that “[t]o insure proficiency in the practical aspects of pharmacy, the board shall, by regulation, prescribe internship requirements which must be satisfactorily completed prior to issuance of a pharmacist license.” Section 27.26 sets forth standards for the pharmacy internship. In addition to graduation from an Accreditation Council for Pharmacy Education (ACPE) accredited pharmacy degree program and successful completion of the licensure examination,

completion of an internship prepares the applicant to function competently and effectively upon licensure. The current trend in pharmacy education is for greater participation by students in an academic internship as part of the educational process. This final-form rulemaking permits a pharmacy intern to complete more of the internship requirements through academic internships or nontraditional internships. Additionally, this final-form rulemaking assures that only those aspiring pharmacists who continue the path to licensure will be permitted to continue to work as pharmacy interns.

Summary of Comments and Responses to Proposed Rulemaking

The Board published a proposed rulemaking at 42 Pa.B. 5353 (August 18, 2012) with a 30-day public comment period. The Board received comments from the following commentators: Heather J. Johnson, Pharm.D., BCPS, Assistant Professor, University of Pittsburgh School of Pharmacy; Brian A. Potoski, R.Ph., Pharm.D., Associate Professor, University of Pittsburgh School of Pharmacy; Mary Elizabeth Ray, B.S.Pharm., Pharm.D., Director, Office of Experiential Education, LECOM School of Pharmacy; Hershey S. Bell, M.D., M.S., FAAFP, Professor, Vice President for Academic Affairs and Dean, LECOM School of Pharmacy; and the Pennsylvania Pharmacists Association (PPA). The Board also received comments from the Independent Regulatory Review Commission (IRRC) as part of the review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.12a). On October 3, 2012, the House Professional Licensure Committee (HPLC) voted to not take formal action on the proposed regulation until the final regulation is promulgated. The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The comments were discussed at the public meeting of the Board on September 17, 2013. Present during the discussion of the comments were representatives from Target, Acme, PPA, the Hospital and Healthsystem Association of Pennsylvania, CVS Caremark and Giant. These stakeholders did not offer additional comment during discussion of the written comments.

The comments from Heather J. Johnson, Brian A. Potoski, Hershey S. Bell and PPA were supportive of the amendments and did not offer changes to the proposed rulemaking. Mary Elizabeth Ray was supportive of the proposed amendments and hoped that the Board would, in the future, eliminate the requirement in § 27.19 (relating to prospective drug review and patient counseling) that only a pharmacist may counsel. While not adding that change to this final-form rulemaking, the Board considered the comment and plans to address patient counseling by interns in an upcoming “general revisions” rulemaking, which is currently being drafted.

IRRC expressed concern regarding § 27.26(b)(2) where the Board requires documentation from the ACPE-accredited pharmacy degree program (program) to include the student’s Social Security number. At the outset, the Board notes that this information has been collected on the intern application for many years from both the student and the program. The Board is merely codifying the information it has traditionally requested on the application. Currently, Section E of the intern application requests this information from the program. However, if the program were to send a letter instead of completing Section E, the program has notice of what information needs to be on the letter for the Board to process it and match it with the other parts of the intern application.

IRRC also asked why the Board is not directly asking the student to produce the Social Security number. Section A of the application, which is completed by the student, asks the student to provide the Social Security number. The Board is required under section 466(a)(13)(A) of the Social Security Act (42 U.S.C.A. § 666(a)(13)(A)) to collect this information to comply with requirements regarding child support enforcement as implemented in this Commonwealth by 23 Pa.C.S. § 4304.1(a) (relating to cooperation of government and nongovernment agencies). In fact, the Commonwealth previously applied under section 6 of the Social Security Number Privacy Act (71 P.S. § 2606) to the United States Department of Health and Human Services for an exemption from the requirement. However, in a letter from Margot Bean, Commissioner of the Office of Child Support Enforcement within the United States Department of Health and Human Services dated July 28, 2008, the exemption was denied as to applications for professional and occupational licenses (although it was granted as to recreational licenses).

Additionally, the Board is required to collect Social Security numbers to comply with the mandatory reporting requirements of the Federal National Practitioner Data Bank. Under regulations of the United States Department of Health and Human Services in 45 CFR Part 60 (relating to National Practitioner Data Bank), the Board is required to report disciplinary actions taken against licensees and registrants to the National Practitioner Data Bank. Specifically, 45 CFR 60.9(b)(1)(ii) (relating to reporting licensure and certification actions taken by states) requires the reporting of the individual's Social Security number when reporting adverse actions taken by health-related licensing authorities.

For these reasons, the following notice is found on applications, including the application for intern registration:

Disclosing your Social Security number on this application is *mandatory* in order for the Pennsylvania State Board of Pharmacy to comply with the requirements of the federal Social Security Act pertaining to child support enforcement, as implemented in the Commonwealth of Pennsylvania at 23 Pa.C.S. § 4304.1(a). In order to enforce domestic child support orders, the Commonwealth's licensing boards must provide to the Department of Public Welfare (DPW) information prescribed by DPW about the licensee, including the Social Security number. Additionally, disclosing the number is *mandatory* in order for this board to comply with the reporting requirements of the federal National Practitioner Data Bank (NPDB). Reports to the NPDB must include the individual's Social Security number.

IRRC further asked what capacity the Board has to verify the Social Security number. The Board asks the program to provide the Social Security number as a way to match that portion of the application with the portion submitted directly by the student. As the two portions of the application do not come to the Board office together, the Board must be able to match the program portion of the application with the student portion of the application. The Board receives many intern applications, and applicants can have the same name or birth date. The Social Security number is the best means of matching the two portions of the application.

IRRC also expressed concern about how the Board will internally secure this documentation to protect the student from identity theft. The Board will secure the student's Social Security number as it does all confiden-

tial information received from licensees. The information is entered into the licensing system. The Board scans the application and stores the document electronically in the licensing system. The paper applications are then placed in locked recycle bins and sent for confidential shredding. The Board is also transitioning its applications to online forms. The information goes directly into the licensing system when the online forms are received.

IRRC asked whether the program possesses the student's Social Security number and whether the Board would deny an internship to a student if the Social Security number is not disclosed by or available to the program. In the Board's experience, programs generally have the student's Social Security number. In the rare circumstance that a program may not have a student's Social Security number, it has been able to obtain it once notified that it is required. An application that is missing a Social Security number is not denied. It is held as pending until the Social Security number is provided.

Upon review of the proposed rulemaking and comments the Board noticed that in § 27.26(1) it had omitted an amendment to delete "certificate" and replace it with "registration." In the final-form rulemaking, the Board changed this term to comport with the change in terminology made in the proposed rulemaking. No other changes were made to the annex in the final-form rulemaking.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. Because the information required under § 27.26 is already collected by the Board, this final-form rulemaking does not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 8, 2012, the Board submitted a copy of the notice of proposed rulemaking, published at 42 Pa.B. 5353, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on October 22, 2014, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 23, 2014, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Board Counsel, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7156, st-pharmacy@state.pa.us.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968

(P. L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

(3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 42 Pa.B. 5353.

(4) The final form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending § 27.26 to read as set forth in Annex A.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

THERESA M. TALBOTT, R.Ph.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 7145 (November 8, 2014).)

Fiscal Note: Fiscal Note 16A-5424 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY PHARMACISTS

§ 27.26. Pharmacy internship.

(a) Pharmacy internship means the supervised practical experience required for licensure as a registered pharmacist. The purpose of the pharmacy internship program is to provide a registered intern with the knowledge and practical experience necessary for functioning competently and effectively upon licensure.

(b) Registration as a pharmacy intern will be available to an individual of good moral character who has completed at least 2 years of college and is enrolled or accepted as a student of pharmacy in an ACPE-accredited pharmacy degree program. A person desiring to register as a pharmacy intern shall do the following:

(1) Apply to the Board for registration including the fee specified in § 27.91 (relating to schedule of fees) for registering as a pharmacy intern.

(2) Forward to the Board acceptable documentation verifying that the applicant has successfully completed at least 2 years of college and is enrolled or accepted as a student of pharmacy in an ACPE-accredited pharmacy degree program. Acceptable documentation includes a

document bearing the school's seal received by the Board directly from the dean or registrar of the ACPE-accredited pharmacy degree program which includes the pharmacy student's name, address, Social Security number, and a statement indicating that the student has successfully completed at least 2 years of college and is enrolled or accepted as a student of pharmacy in, or has graduated from, the ACPE-accredited pharmacy degree program.

(c) The Board will register an applicant after it receives a completed application and other items in subsection (b). A pharmacy intern registration is valid for 6 years from the date of issue exclusive of time spent in the military. A pharmacy intern registration will automatically become invalid if the pharmacy intern permanently ceases enrollment in an ACPE-accredited pharmacy degree program prior to graduation. A pharmacy intern whose registration becomes invalid under this subsection shall immediately return to the Board the pharmacy intern registration and preceptor approval documents.

(d) The following applies to internship credit:

(1) An intern shall serve at least 1,500 hours.

(2) A maximum of 50 hours may be credited in 1 week.

(3) An intern shall serve at least 500 of the 1,500 hours in a pharmacy.

(4) An intern may earn up to 1,000 of the 1,500 hours in an internship program sponsored or approved by an ACPE-accredited pharmacy degree program.

(5) The Board may grant internship credit for hours that an individual served in a pharmacy before the individual registered as an intern only if the individual shows good cause for failing to register in timely fashion.

(6) The Board will not grant internship credit for hours which an individual served in a pharmacy if the supervising pharmacist was not registered as a preceptor. An exception to the requirement that the supervising pharmacist register as a preceptor will be made for internship hours acquired in an internship program sponsored or approved by an ACPE-accredited pharmacy degree program.

(e) The Board will grant internship credit only for activities related to the practice of pharmacy. The following are examples of these activities: scrutinizing prescriptions or drug orders, taking oral orders for prescriptions by telephone or otherwise, compounding medications and filling prescriptions. The Board will not grant internship credit for activities which are not related to the practice of pharmacy.

(f) An intern who wishes to receive credit for internship experience that is not in a pharmacy or sponsored or approved by an APCE-accredited pharmacy degree program shall apply to the Board for approval before beginning an internship experience. Upon receipt of the application, the Board will review and determine how much, if any, credit will be given. Requests for approval shall be submitted at least 90 days before the internship experience begins. Credit given for a nontraditional internship may not be used to satisfy the requirement of subsection (d)(3) pertaining to the minimum amount of time the internship shall be served in a pharmacy.

(g) A person may not be eligible to become a candidate for registration to practice pharmacy unless the person receives instruction in practical pharmacy and pharmaceutical technique from an instructor, professor or faculty member who is a registered pharmacist or from a faculty

member who is a registered pharmacist at an ACPE-accredited pharmacy degree program.

(h) The following requirements are applicable to a pharmacy utilized for intern training:

(1) A pharmacy may not have been or be in violation of Federal, State or municipal statutes and ordinances governing any phase of activity in which it is engaged. A pharmacy may appeal to the Board for a waiver of this provision.

(2) A pharmacy shall be managed so that the emphasis is on activities connected with the distribution of articles and services pertaining to medical care, including drugs, medicines, prescriptions, medical supplies and materials.

(3) A pharmacy shall be kept in a sanitary, orderly and clean condition, and the prescription department shall meet the requirements in the statutes and regulations as they affect prescription departments.

(4) A pharmacy shall compound and dispense a sufficient number of prescriptions including renewals so as to provide the pharmacy intern with ample opportunity to scrutinize prescriptions and to compound and dispense under the supervision of a licensed pharmacist.

(5) A pharmacy shall have in its employ a licensed pharmacist who is registered as a pharmacist preceptor.

(6) A pharmacy which meets the qualifications of this section shall be approved by the Board after proper notification by the owner or manager of willingness to cooperate in the development of the internship program. Whenever a new intern is accepted for training in the pharmacy, the pharmacist preceptor shall notify the Board of the name of the intern and his anticipated period of internship in the pharmacy.

(i) The requirements for registration as a pharmacist preceptor are as follows:

(1) A pharmacist preceptor may not have been convicted of a criminal offense relating to the practice of pharmacy.

(2) An applicant shall hold a license without restriction to practice pharmacy in this Commonwealth and shall be engaged in the active practice of pharmacy in this Commonwealth.

(3) An applicant shall be working on a full-time basis in a pharmacy utilized for intern training.

(4) A pharmacist preceptor may not direct the training of more than two pharmacy interns at any one time, unless the program has been approved by the Board for a greater number.

(5) A pharmacist preceptor shall be willing to cooperate with the Board in developing an intern program and shall apply to the Board signifying the desire to do so.

(6) A pharmacist preceptor shall certify to the commencement and completion of intern training and may make recommendations to the Board concerning the competency of the intern under his supervision.

(7) A pharmacist preceptor shall report to the Board, as required by the Board, on the progress of an intern under the pharmacist's supervision.

(8) A pharmacist preceptor shall be charged with the responsibility for seeing that his intern receives proper pharmaceutical training and experience, always keeping in mind the objections of the practical training program.

(j) Credit will be granted for practical experience gained in pharmacies outside this Commonwealth upon

presentation of evidence satisfactory to the Board to indicate that the experience gained is substantially equivalent to that required by this chapter.

(k) The pharmacy internship may not be deemed satisfactorily completed until the intern has filed affidavits with the Board certifying that the intern has obtained a total of 1,500 hours of practical experience since registration as a pharmacy intern.

(l) When a candidate receives his first certificate and identification card to practice as a pharmacist, his registration as an intern terminates.

[Pa.B. Doc. No. 14-2505. Filed for public inspection December 5, 2014, 9:00 a.m.]

**STATE BOARD OF EXAMINERS IN
SPEECH-LANGUAGE PATHOLOGY AND
AUDIOLOGY
[49 PA. CODE CH. 45]
Continuing Education**

(Editor's Note: The act of July 2, 2014 (P. L. 971, No. 106) renamed the State Board of Examiners in Speech-Language and Hearing as the State Board of Examiners in Speech-Language Pathology and Audiology.)

The State Board of Examiners in Speech-Language Pathology and Audiology (Board) amends §§ 45.1, 45.501—45.505 and 45.507 to read as set forth in Annex A.

Effective Date

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

Statutory Authority

This final-form rulemaking is authorized by section 5(2) and (7) of the Speech-Language Pathologists and Audiologists Licensure Act (act) (63 P. S. § 1705(2) and (7)).

Description and Need for the Rulemaking

In 2006, the Board promulgated initial regulations concerning continuing education. Having applied the continuing education requirements during two subsequent renewal cycles, the Board has identified areas of the regulations where clarity or completeness could be improved.

Summary of Comments and Responses to Proposed Rulemaking

The Board published the proposed rulemaking at 43 Pa.B. 5828 (October 5, 2013) with a 30-day public comment period. The Pennsylvania Speech-Language Hearing Association expressed its support for the proposed rulemaking. The Board received no other comments from the public. The Independent Regulatory Review Commission (IRRC) commented as part of its review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12a). The House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment on the proposed rulemaking.

IRRC noted that section 5(7) of the act allows the Board to waive all or part of the continuing education requirements due to illness, emergency or hardship, but is silent on whether an extension of time to complete required continuing education is appropriate. IRRC asked

the Board to explain why it believes that the inclusion of the proposed language is consistent with section 5(7) of the act and the intent of the General Assembly.

Section 5(7) of the act authorizes the Board to waive all or part of the continuing education requirement for a licensee who shows to the satisfaction of the Board that the licensee was unable to complete the requirement due to illness, emergency or hardship and requires the licensee to make the request in writing, with appropriate documentation, describing the circumstances sufficient to show why the licensee is unable to comply with the requirement. Section 45.502(b) (relating to exemption and waiver) already addresses this process. In addition to the circumstances that cause the licensee's hardship, the Board typically considers the extent to which the licensee has already completed continuing education in deciding whether to waive the requirement or grant an extension for a temporary hardship. Also, because oftentimes the circumstances result from unexpected events at the last minute that keep a licensee from participating in continuing education as planned, the Board will sometimes grant a limited extension of time in which to complete continuing education rather than waive the requirement entirely. The Board considers granting an extension of time in which to complete required continuing education due to illness, emergency or hardship as granting a waiver in part, and the authority to grant a waiver includes the authority to grant it in part. Additionally, granting an extension of time, when appropriate, serves the purposes of the act. Requiring completion of continuing education as a condition of renewal assures that licensees remain competent to practice. Rather than relieving a licensee of all obligation to complete continuing education, extending the time in which to complete the required continuing education assures that competence while also accommodating a temporary illness, emergency or hardship experienced by the licensee.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will not have adverse fiscal impact on the Commonwealth, its political subdivisions or the private sector. The final-form rulemaking will not impose additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 25, 2013, the Board submitted a copy of the notice of proposed rulemaking, published at 43 Pa.B. 5828, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 22, 2014, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 23, 2014, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Judith

Pachter Schuller, Counsel, State Board of Examiners in Speech-Language Pathology and Audiology, P. O. Box 2649, Harrisburg, PA 17105-2649, RA-SPEECH@pa.gov.

Findings

The Board finds that:

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

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

(3) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 45, are amended by amending §§ 45.1, 45.501—45.505 and 45.507 to read as set forth in Annex A.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

JAMES L. SHAFER, AuD,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 7145 (November 8, 2014).)

Fiscal Note: Fiscal Note 16A-6807 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 45. STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

Subchapter A. GENERAL PROVISIONS

§ 45.1. Fees.

The following are the fees set by the State Board of Examiners in Speech-Language and Hearing:

- (1) Initial license—speech-language pathologist, audiologist or teacher of the hearing impaired \$20
- (2) Certification of licensure \$15
- (3) Biennial renewal \$46
- (4) Examination for teacher of the hearing impaired \$87
- (5) Application for continuing education approval (other than preapproved provider) \$40

Subchapter G. CONTINUING EDUCATION

§ 45.501. Credit hour requirements.

(a) Each speech-language pathologist, audiologist or teacher of the hearing impaired shall have completed 20 clock hours of continuing education per license during each preceding biennial renewal period, beginning with the renewal period commencing August 1, 2008. Excess clock hours may not be carried over to the next biennium.

(b) Up to 10 clock hours of approved continuing education credit per biennial renewal period may be granted on a case-by-case basis for services as a lecturer or speaker, and for publication of articles, books and research relating to the practice of speech-language pathology, audiology or teaching of the hearing impaired. A licensee seeking continuing education credit under this subsection shall submit a written request with a copy of the lecture, presentation, article, book or research and a fee for continuing education approval as required under § 45.1 (relating to fees). The request shall be submitted 180 days prior to the expiration of the biennial renewal period for which the licensee is seeking credit. An instructor of a program approved under § 45.505 (relating to approval of continuing education programs) will receive credit to the same extent that an attendee will receive credit and is not required to apply for approval under this subsection.

(c) Unless granted a waiver under § 45.502 (relating to exemption and waiver), the Board will not renew or reactivate any speech-language pathologist, audiologist or teacher of the hearing impaired license until the continuing education requirement for the current biennial period has been completed.

(d) A licensee may not receive credit for participation in substantially the same program more than once during a single renewal cycle.

§ 45.502. Exemption and waiver.

(a) A licensee is not required to complete continuing education during the biennial renewal period in which the licensee was first licensed to renew for the next biennium.

(b) The Board may waive all or part of the continuing education requirement for a biennial renewal period upon request of a licensee. The request must be made in writing, with supporting documentation, and include a statement of how much continuing education the licensee has completed and a description of circumstances sufficient to show why compliance is impossible. Except for good cause shown, a licensee seeking a waiver shall submit the request to the Board at least 60 days before the current expiration date of the license for the Board to evaluate the request prior to expiration of the license. Waiver requests will be evaluated by the Board on a case-by-case basis. Waivers may be granted for serious illness, military service or other demonstrated hardship. A waiver request seeking an extension of time to complete required continuing education shall include the licensee's plan to complete the required continuing education. The Board will send written notification of its approval or denial of a waiver request.

§ 45.503. Continuing education requirement for reactivation of inactive and lapsed licenses.

A licensee seeking to reactivate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennial period. Only continuing education obtained during the 24-month

period immediately preceding application for reactivation may be used to justify reactivation. This continuing education is in addition to continuing education required to subsequently renew the license under § 45.501(c) (relating to credit hour requirements).

§ 45.504. Reporting completion of continuing education.

(a) Licensees applying for biennial license renewal shall provide, on forms provided by the Board, a signed statement certifying that the continuing education requirement has been met and information to support the certification which includes the following:

- (1) Dates attended.
- (2) Continuing education hours claimed.
- (3) Title of course and description of content.
- (4) Location of course.

(b) The Board will utilize a random audit of renewals to determine compliance with the continuing education requirement. Applicants selected for audit shall provide the Board the certified continuing education record, as described in § 45.506(b) (relating to provider responsibilities), for each continuing education program completed to prove compliance with the continuing education requirement.

(c) Individuals shall retain the certified continuing education records for courses completed for a minimum of 4 years.

(d) Instead of the continuing education record required under subsection (b), a licensee who successfully completed a program preapproved under § 45.505(d)(3) (relating to approval of continuing education programs) may document completion by means of an official transcript of the institution.

§ 45.505. Approval of continuing education programs.

(a) Credit for continuing education may be obtained for any program approved in advance by the Board. Preapproval is contingent upon compliance with § 45.506 (relating to provider responsibilities).

(b) Any person or entity, including an agency, organization, institution, college, university, professional society, association or center, seeking approval of continuing education programs shall:

- (1) Apply for approval of the program on forms provided by the Board.
- (2) File the application at least 90 days prior to the first scheduled date of the program.
- (c) An application must contain:
 - (1) The full name and address of the provider.
 - (2) The title of the program.
 - (3) Faculty names and credentials, and, if requested by the Board, curriculum vitae.
 - (4) A schedule of the program, including the title and description of each subject, the course content, the name and brief synopsis of qualifications of the lecturers and the time allotted.
 - (5) The total number of clock hours of credit to be awarded.
 - (6) A method of certifying participation.

(7) The program coordinator who is responsible for certifying participation and compiling an official list of Pennsylvania licensees in attendance at the continuing education program.

(8) A fee as required by § 45.1 (relating to fees).

(d) The following programs are deemed approved for continuing education credit:

(1) Continuing education programs approved or sponsored by the American Speech-Language-Hearing Association.

(2) Continuing education programs approved or sponsored by the American Academy of Audiology.

(3) Courses and programs offered for credit by academic programs in speech-language pathology, audiology or teaching of the hearing impaired associated with institutions accredited by any state's department of education or a regional commission on institutions of higher education.

(e) The Board may deny approval of a program of continuing education based on the following grounds:

(1) The provider failed to comply with § 45.506 for other programs.

(2) The provider made one or more false or misleading material statements on the application.

(3) The identified faculty is deemed not qualified to present the program.

(4) The course content is in office management or practice building.

(5) The method of certifying participation is not verifiable.

(f) The Board may revoke the approval of a provider on the following grounds:

(1) Failure of the provider to comply with § 45.506.

(2) Falsification of a continuing education record by a program provider.

§ 45.507. Disciplinary action authorized.

(a) A licensed speech-language pathologist, audiologist or teacher of the hearing impaired who submits fraudulent continuing education records may be subject to discipline under section 10 of the act (63 P.S. § 1710).

(b) A licensed speech-language pathologist, audiologist or teacher of the hearing impaired who fails to complete the required continuing education requirement within any biennial renewal period may be subject to discipline unless the licensee is exempt or has been granted a waiver under § 45.502 (relating to exemption and waiver).

(c) Notwithstanding discipline imposed by the Board under subsection (b), whether by formal disciplinary proceedings or by issuance of a citation as set forth in § 43b.16a (relating to schedule of civil penalties—audiologists, speech-language pathologists and teachers of the hearing impaired), a licensed speech-language pathologist, audiologist or teacher of the hearing impaired who has been found to be deficient in continuing education hours shall make up deficiencies within 6 months of receiving notice of the deficiency.

(d) Failure to make up deficient continuing education hours as required under subsection (c) may subject the licensed speech-language pathologist, audiologist or teacher of the hearing impaired to further discipline under section 10 of the act.

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