

PROPOSED RULEMAKING

LIQUOR CONTROL BOARD

[40 PA. CODE CH. 5]

Responsible Alcohol Management Program

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), proposes to amend Chapter 5 Subchapter I (relating to Responsible Alcohol Management Program) and add §§ 5.203—5.207, 5.212-5.213, 5.221—5.227 and 5.234—5.236 to read as set forth in Annex A.

Summary

In 2000, the Responsible Alcohol Management Program (RAMP) was established in the Liquor Code (47 P.S. §§ 1-101—10-1001) to provide for training and certification of licensees as to safe and responsible service of alcoholic beverages. At that time, participation in RAMP was mostly voluntary, except for licensees who were ordered to participate as a result of an adjudicated citation or because they were compelled to participate under the terms of a conditional licensing agreement. However, amendments to the Liquor Code have made RAMP training mandatory for managers and servers and have required RAMP certification of certain licensees:

- Act of June 28, 2011 (P.L. 55, No. 11) created the off-premises catering permit and required that all servers at the off-premises catered site must have received RAMP server/seller training.

- Act of December 22, 2011 (P.L. 530, No. 113) (Act 113) amended the Liquor Code to require that managers of a restaurant, eating place retail dispenser, hotel, club, limited distillery or distributor license must complete RAMP manager/owner training within 180 days of the Board's approval of the appointment.

- Act of June 8, 2016 (P.L. 273, No. 39) (Act 39) amended the Liquor Code to require all alcohol service personnel to complete RAMP server/seller training within 6 months of being hired by a licensee, unless the person had successfully completed the training prior to being hired.

- Act 39 also amended the Liquor Code to provide for wine expanded permits, authorizing the permit holder to sell wine to patrons for off-premises consumption. Permit holders must obtain RAMP certification and have a RAMP-trained cashier at the register when patrons are on the licensed premises.

The purpose of this proposed rulemaking is to clarify what constitutes RAMP certification, to clarify what is required of those impacted by the legislative changes and to provide guidance to those who want to offer RAMP server/seller training as online training providers or classroom instructors.

This proposed rulemaking seeks to clarify the difference between RAMP training and RAMP certification, because members of the regulated community frequently misconstrue training for certification. A server/seller is required to receive server/seller training and a manager is required to receive owner/manager training. Sections 5.203 and 5.204 (relating to mandatory training for managers; and mandatory training for alcohol service personnel) were added to provide clarity to the regulated community. Training is a component, a prerequisite for certification; it is not the equivalent of certification. Only licensees

receive RAMP certification. Licensees may voluntarily obtain RAMP certification, or they may be required to obtain it as a result of an adjudicated citation, because of a conditional licensing agreement with the Board, or because it is necessary for a permit they seek to obtain, such as a wine expanded permit.

There are instances throughout Chapter 5, Subchapter I of the Board's regulations where the term "certification" is used in a context other than the certification of a licensee. For example, the current § 5.231 (relating to instructor application) is entitled "Instructor Certification;" § 5.243(a)(1) (relating to records) requires licensees to keep records on the "Certification status of its employees, managers and owners. . . ." Current § 5.233 (relating to minimum standards of training) addresses the need to have an alternative curriculum "certified" by the Board's Bureau of Alcohol Education (BAE). The word "certification" has been used inconsistently, which has contributed to the confusion in the regulated community.

This proposed rulemaking intends to clarify that "certification" is available to licensees only and requires the fulfillment of four prerequisites and then the submission of an application for certification of the licensee. The confusion and need for clarity on this issue prompted the creation of §§ 5.205 and 5.206 (relating to RAMP certification prerequisites; and RAMP certification). In addition, throughout this proposed rulemaking, if the word "certification" or "certified" was used in a context other than licensee certification, it was replaced with a more appropriate word. For example, online training providers and classroom instructors are authorized or deauthorized, not certified. Server/sellers and owner/managers receive training, not certification. Curriculum is approved, not certified.

This proposed rulemaking edits § 5.201 (relating to purpose) by keeping the first sentence but deleting the remainder. The provisions in § 5.201(a), pertaining to the four-part RAMP, are set forth in more detail at new § 5.205. The provisions in subsections (b) and (c) are set forth in more detail in new §§ 5.205 and 5.206.

This proposed rulemaking expands the definitions listed in § 5.202 (relating to definitions) by adding terms that have been introduced in the new sections, such as alternative curriculum, designated employee, material change, online training provider, standard curriculum and training voucher. Other definitions were edited to provide clarity and consistency within the regulation.

This proposed rulemaking adds § 5.203, which stems from the provision of Act 113 that requires managers, under section 471.1(g) of the Liquor Code (47 P.S. § 4-471.1), to obtain owner/manager training. This proposed regulation provides that the manager will be deemed to have met the training requirement if they have successfully completed the training within the 2 years prior to being appointed manager. Two years was chosen as the time frame because it corresponds with RAMP certification, which is also valid for 2 years.

This proposed rulemaking also adds § 5.204, which stems from the provision of Act 39 that requires alcohol service personnel, under section 471.1(h) of the Liquor Code, to obtain server/seller training. Like § 5.203, the alcohol service personnel will be deemed to have met the training requirement if they have successfully completed the training within 2 years prior to being hired by the licensee.

This proposed rulemaking adds § 5.205 which is intended to clarify that training alone does not constitute certification. The word “prerequisites” was deliberately chosen to signal that the four components are not synonymous with certification. The four prerequisites are: (1) owner/manager training, which was formerly located in § 5.241 (relating to manager/owner training); (2) server/seller training, which was previously not explained in detail; (3) new employee orientation, which was formerly located in § 5.242 (relating to new employee orientation); and (4) display of responsible alcohol service signage, which was previously located in § 5.261 (relating to signs).

Section 5.206 incorporates text from former § 5.271 (relating to premises certification). Section 5.206 was deliberately set apart from § 5.205 to make clear that satisfying the prerequisites was not the equivalent of RAMP certification. Another step is required; a licensee must file an application with the Board for certification.

Section 5.207 (relating to records) is based on former § 5.243. The language in § 5.207(a)(1) is proposed to be updated to reflect the information that the BAE wants licensees to keep.

Central to any course of instruction is the curriculum. The current language in § 5.211 (relating to course of study for alcohol service personnel) is proposed to be deleted and replaced with a sentence explaining that someone who wants to offer server/seller training may use either the Board’s standard curriculum or an alternative curriculum that has been approved by the Board. This proposed rulemaking goes on to provide more information in §§ 5.212 and 5.213 (relating to standard curriculum; and alternative curriculum).

This proposed rulemaking adds § 5.212, providing that a standard RAMP curriculum for server/seller training is electronically available, free of charge, to anyone who requests it. If someone requests that the information be provided in hard copy by means of mail, the Board will provide it for a flat fee.

This proposed rulemaking adds § 5.213 to explain, in greater detail, what is required of someone who wants to get an alternative curriculum approved for use in server/seller training. This proposed rulemaking introduces a limit of two resubmissions to correct any deficiencies; that limit was chosen as a fair balance between the interests of the alternative curriculum offeror and the limited resources of the BAE.

Current § 5.211(b) requires a fee of \$250 to be paid by someone who chooses to use an alternative curriculum. The Board studied the cost it takes to evaluate and approve an alternative curriculum. It is estimated that the process takes 17.5 hours at a cost to the Board of \$515. Rounding the cost of estimation down to the nearest hundred (\$500) and then dividing that figure in half results in a figure of \$250. Therefore, this proposed rulemaking includes no change to the fee assessed for approving an alternative curriculum.

This proposed rulemaking includes a new heading, Online Training Providers and Programs for Server/Seller Training. The increased demand for RAMP server/seller training can be met, in part, by online server/seller training.¹ The BAE has allowed a limited number of online training providers to offer server/seller training since November 2011. The section is based on the BAE’s

experience with existing online training providers and includes guidance for anyone wanting to become a new online training provider.

Section 5.221 (relating to online training provider application) also includes a limitation that the Board will only accept applications during scheduled open enrollment periods. The purpose behind this amendment is primarily to control the number of applications received by the BAE. To ensure that those seeking server/seller training receive a quality experience, online training providers must be thoroughly evaluated. Evaluating online training providers is a time-consuming process, which includes numerous deadlines for the applicant and the BAE, and the BAE has only nine staff members available to conduct the evaluations. Therefore, limiting the acceptance of applications to scheduled periods is an effective way to ensure that the BAE can evaluate and authorize qualified online training providers within a reasonable timeframe.

Section 5.221 establishes the procedure for someone applying to become a new online training provider. Currently, online training providers are assessed the same fee required of classroom instructors—\$250—because the regulations do not as yet provide for a fee for online training providers. To determine an appropriate fee for an online training provider application, the Board calculated the amount of time spent in evaluating the application and supporting the online training provider. The process includes, but is not limited to, reviewing the application and the online training content, providing feedback and evaluating resubmissions of training content, providing troubleshooting and records reconciliation, and course evaluation. It is estimated that the process takes 55 hours at a cost to the Board of \$1,772.50. The evaluation is extensive and time consuming, since every link and every digital functionality must be tested to ensure that the program works as it is supposed to. As a result, this proposed rulemaking establishes the nonrefundable application fee of an online training provider at \$850. This fee was calculated by rounding the cost of evaluation and support down to \$1,700 and then dividing that figure in half.

Given the number of people who need to obtain server/seller training, the Board believes that online training providers can easily recoup the fee from alcohol service personnel in need of training. During Fiscal Year (FY) 2017-2018, 55,811 people received server/seller training from an online training provider, of which there are currently ten. If the number of students who obtained training were equally divided among the ten online training providers, each online training provider would have 5,581.1 students. The online training provider could recoup the \$850 application fee by charging each of those students 15.23 cents ($5,581.1 \times \$0.1523 = \850). Put another way, an online training provider would only need \$1 from approximately 1.523% of the 55,811 students to recoup the application fee ($55,811 \times 1.523\% = 850$). Currently, online training providers charge from \$8 to \$40 per training, with most charging \$20 or \$25.

Section 5.222 (relating to online training program approval process) sets forth the approval process, which requires the evaluation of the online training program itself. An online training provider is allotted 120 days to give the Board access to the online training web site. After receiving access to the web site, the Board will determine whether the web site meets the minimum standards that are set forth in § 5.223 (relating to minimum standards of the online training program). The minimum standards include certain program features,

¹ As an aside, only the Board may offer owner/manager training. 47 P.S. § 4-471.1(c).

program availability, program functionality and the Board's final examination. The minimum standards also set forth security and technology requirements, such as encrypting personally identifiable information and prohibiting the online training provider from selling or using such information for any purpose other than for identification by the online training provider and verification by the Board.

Assuming an online training provider is successful with its application, this proposed rulemaking sets forth the responsibilities of the online training provider in § 5.224 (relating to online training provider responsibilities).

Section 5.225 (relating to renewal of authorization) explains the time frame and procedures for renewing the authorization to serve as an online training provider. Through this proposed rulemaking, the Board is establishing clear rules for the renewal of an online training provider's authorization. Currently, online training providers pay a renewal fee of \$250. This fee has not been changed since 2010. To determine an appropriate fee, the Board calculated the amount of time spent in renewing an online training provider. The process includes, but is not limited to, course evaluation, student records reconciliation and troubleshooting. It is estimated that the process takes approximately 39 hours at a cost to the Board of \$1,222.50. As a result, § 5.225 of this proposed rulemaking increases the renewal fee of an online training provider from \$250 to \$300. This fee was calculated by rounding the cost of evaluation and support down to \$600 and then dividing that figure in half.

In addition, § 5.225 imposes late fees on online training providers if renewal applications are not timely filed. Because RAMP has only nine staff members, requiring an online training provider to submit a renewal application 30 days before expiration allows sufficient time for the RAMP staff to process the request. This ensures that the online training provider's authorization is renewed in a timely fashion, without interruption of the provider's business. Renewals that are submitted shortly before expiration or after expiration tend to disrupt the work of the RAMP office; further, the late-submitting provider will often ask for expedited service for what is truly an avoidable crisis. Towards that end, additional late fees of \$100 and \$250 are imposed to compel the timely submission of the application for renewal. These fees were adopted because they are the same fees that licensees must pay if they are untimely with their license renewal applications. See 47 P.S. § 4-470(a). In addition, this proposed rulemaking establishes a deadline whereby late renewal applications will not be accepted; the online training provider will have to wait for open enrollment to submit a new application instead of a renewal.

Section 5.226 (relating to training vouchers) addresses a practice whereby online training providers issue training vouchers in bulk quantities to licensees with many employees, such as chain restaurants or casinos. The licensee may then give the training vouchers to its employees to obtain the server/seller training. Once these vouchers are sold, however, there is no guarantee that the online training provider will still be authorized to provide such training by the time the last voucher is redeemed and training is completed. To balance a licensee's need to provide server/seller training to numerous employees and to protect the licensee from the possibility of having a large quantity of vouchers from a training provider who is no longer authorized to provide training, this proposed rulemaking provides that the training vouchers are only valid for 60 days from the date of purchase. In this way,

the risk to the licensee is limited and the training provider is still able to offer bulk training to licensees who are interested.

An online training provider who does not meet the minimum standards, who does not meet its responsibilities, or who engages in prohibited conduct may be deauthorized from providing online training. Proposed § 5.227 (relating to deauthorization of online training providers) sets forth the procedure that will be followed when an online training provider does not adhere to regulations.

This proposed rulemaking also includes, in § 5.231 (relating to classroom instructor application), updates to the regulations that pertain to classroom instructors of server/seller training. One of the changes to the regulation was to require the applicant to have had, within the past 5 years, 2 years of experience as a trainer or in giving presentations. The purpose behind this change was to ensure that the applicant's skills in this area are still relatively fresh, not, for example, based on an experience from 20 years ago. In addition, hospitality experience has been clarified to be related to hotel/restaurant management, to ensure that the applicant has ample experience.

Section 5.231 also includes a limitation that the Board will only accept applications during scheduled open enrollment periods. The purpose behind this amendment is primarily to control the number of applications received by the BAE. To ensure that those seeking server/seller training receive a quality experience, the classroom instructors must be thoroughly evaluated. Evaluating instructors is a time-consuming process, which includes numerous deadlines for the applicant and the BAE, and the BAE has only nine staff members available to conduct the evaluations. Therefore, limiting the acceptance of applications to scheduled periods is an effective way to ensure that the BAE can evaluate and authorize qualified classroom instructors within a reasonable timeframe.

Currently, new classroom instructors pay a fee of \$250. This fee has not been changed since 2010. To determine an appropriate fee, the Board calculated the amount of time spent in evaluating and training a new classroom instructor. The process includes, but is not limited to, 2 days of instruction as well as onsite training evaluation. It is estimated that the process takes approximately 50 hours at a cost to the Board of \$1,083.80. As a result, § 5.231 of this proposed rulemaking increases the nonrefundable application fee of a new classroom instructor from \$250 to \$500. This fee was calculated by rounding the cost of evaluation and support down to \$1,000 and then dividing that figure in half.

During FY 2017-2018, 22,648 people obtained server/seller training in a classroom setting. There are currently 36 classroom instructors; if the people taking server/seller training were evenly distributed among the 36 classroom instructors, each instructor would teach 629.11 people per year. The authorized classroom instructor can recoup the \$500 authorization fee by charging each student an additional eighty cents ($629.11 \times \$0.80 = \503.29). Put another way, a classroom instructor would only need \$1 from approximately 2.3% of the 22,468 students to recoup the application fee ($22,468 \times 2.3\% = 516.764$). It is estimated that currently, classroom instructors charge from \$15 to \$50 per training, with most charging \$25 to \$40.

This proposed rulemaking amends § 5.232 (relating to classroom instructor approval process) to address the classroom instructor approval process instead of class-

room instructor responsibilities, which will be addressed in newly added § 5.234 (relating to classroom instructor responsibilities). The most significant change to the approval process is the institution of a probationary period. The probationary period allows the BAE to evaluate classroom instructors “in action,” to ensure that the classroom instructor can actually teach the material. If a classroom instructor does not achieve a rating of “Outstanding,” “Commendable” or “Satisfactory,” the Board will terminate the classroom instructor’s authorization.

Section 5.233 (relating to minimum standards of classroom training) amends the existing regulation in small ways to provide greater clarity to the regulated community. For example, because this proposed rulemaking introduces the category of online training providers, this section is amended to refer to “classroom instructors,” to clearly distinguish them from online training providers.

Additionally, in § 5.233, a classroom instructor is required to notify the Board immediately when cancelling a training session or making a change to the training schedule. Previously, the methods of communication between the classroom instructor and the Board in these circumstances included first class United States mail, other delivery or express service, facsimile or e-mail. This proposed rulemaking amends the methods of communication to reflect the actual practice, which is by telephone or e-mail, eliminating all other methods.

In this proposed rulemaking, new § 5.234 includes the existing content of § 5.232. The section has been expanded to include a subsection requiring the classroom instructor on probationary status to adhere to the Board’s Regulations and Probationary Status Instructor policies that will be provided by the Board. The section also adds responsibilities of classroom instructors about making changes to the curriculum, about acknowledging communications from the Board, getting Board approval on marketing correspondence, and keeping contact information up to date with the Board.

This proposed rulemaking adds new § 5.235 (relating to renewal of authorization). Through this proposed rulemaking, the Board is establishing clear rules for the renewal of a classroom instructor’s authorization. Currently, classroom instructors pay a renewal fee of \$250. This fee has not been changed since 2010. To determine an appropriate fee, the Board calculated the amount of time spent in renewing a classroom instructor. The process includes, but is not limited to, travelling to locations for onsite training evaluation. It is estimated that the process takes approximately 22.5 hours at a cost to the Board of \$655. As a result, § 5.235 of this proposed rulemaking increases the renewal fee of a classroom instructor from \$250 to \$300. This fee was calculated by rounding the cost of evaluation and support down to \$600 and then dividing that figure in half.

In addition, § 5.235 imposes late fees on classroom instructors if renewal applications are not timely filed. Because RAMP has only nine staff members, requiring a classroom instructor to submit a renewal application 30 days before expiration allows sufficient time for the RAMP staff to process the request. This ensures that the instructor’s authorization is renewed in a timely fashion, without interruption of the instructor’s business. Renewals that are submitted shortly before expiration or after expiration tend to disrupt the work of the RAMP office; further, the late-submitting instructor will often ask for expedited service for what is truly an avoidable crisis. Towards that end, additional late fees of \$100 and \$250 are imposed to compel the timely submission of the

application for renewal. These fees were adopted because they are the same fees that licensees must pay if they are untimely with their license renewal applications. See 47 P.S. § 4-470(a). In addition, this proposed rulemaking establishes a deadline whereby late renewal applications will not be accepted; instead, the classroom instructor will have to wait for open enrollment to submit a new application.

The last new section added by this proposed rulemaking is § 5.236 (relating to deauthorization of classroom instructors). This section is nearly identical to § 5.227 except for the fact that it does not include provisions that are unique to online training providers: the invalidation of training that is completed after deauthorization and the invalidation of previously issued training vouchers. Neither of these scenarios is at issue with classroom instructors and, therefore, these provisions were not included in § 5.236.

This proposed rulemaking deletes the text in § 5.241. This information can now be found in § 5.205(b)(1), relating to RAMP certification prerequisites. This proposed rulemaking also deletes the text in § 5.242. This information has been restated with more detail and can now be found in § 5.205(b)(3). This proposed rulemaking deletes the text in § 5.243. This information can now be found in § 5.207.

This proposed rulemaking amends § 5.251 (relating to additional prohibited conduct). Two new sections—§§ 5.227 and 5.236 (relating to deauthorization of online training providers; and deauthorization of classroom instructors)—identify the conduct that will lead to deauthorization. To eliminate repetition, the text in subsections 5.251(a)(9), (b) and (c) have been deleted. The remainder of the text in § 5.251 was edited to include minor updates in vernacular, to be consistent with the rest of this proposed rulemaking. The only significant change is the incorporation of a reference to the Pennsylvania Human Relations Act (PHRA) (43 P.S. §§ 951—963); discrimination or harassment based on age, race, sex, disability, National origin or religion or any other protected class under the PHRA is prohibited conduct.

This proposed rulemaking deletes the text of § 5.271. This information can now be found in § 5.206.

Affected Parties

The affected parties include licensees and their employees, including managers and server/sellers, as well as entities that are offering RAMP server/seller training. For FY 2017-2018, 5,902 people enrolled in owner/manager training and 78,459 people enrolled in server/seller training. As of February 28, 2019, there were 36 classroom instructors of server/seller training and 10 online training providers of server/seller training.

Paperwork Requirements

This proposed rulemaking does not impose any new paperwork requirements on licensees, alcohol service personnel, managers, online training providers or classroom instructors.

Fiscal Impact

The fee for a classroom instructor has increased from \$250 to \$500, with a renewal fee of \$300. In addition, the fee for an online training provider is established as \$850, with a renewal fee of \$600. Moreover, these fees are less than half of the costs incurred by RAMP to train and authorize classroom instructors or to review the content of an online training provider as well as test every link and every digital functionality. However, as explained

previously, these fees can readily be offset from the fees that online training providers and classroom instructors already charge to the tens of thousands of people who need server/seller training.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments about this proposed rulemaking to Rodrigo Diaz, Chief Counsel, Jason M. Worley, Deputy Chief Counsel, or Norina Foster, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001, within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. When commenting, individuals should indicate if they wish to be apprised of future developments regarding this proposed rulemaking, and include a name, address and e-mail address. Comments submitted by facsimile will not be accepted.

Public comments will be posted on the Independent Regulatory Review Commission's (IRRC) web site. Personal information will not be redacted from the public comments received.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 3, 2019, 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 House Liquor Control Committee and Senate Committee on Law and Justice. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to this proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of this proposed rulemaking by the Board, the General Assembly and the Governor.

TIM HOLDEN,
Chairperson

Fiscal Note: 54-90. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

GENERAL

§ 5.201. Purpose.

[(a) This subchapter implements the program authorized under section 471.1 of the Liquor Code (47 P.S. § 4-471.1), regarding responsible alcohol management. This provision authorizes the Board to establish a four-part program including:

- (1) New employee orientation.
- (2) Training for alcohol service personnel.
- (3) Manager/owner training.
- (4) Display of responsible alcohol service signage.

(b) Under section 471.1(f) of the Liquor Code, licensees are to obtain certification upon the completion of a certified alcohol service personnel program or the Board's owner/manager training program. Certification will be valid for 2 years.

(c) Licensees and their managers and employees may enter the Responsible Alcohol Management Program voluntarily, may commit to participation as part of a conditional licensing agreement entered into with the Board or may be required to participate by order of one of the Board's administrative law judges. This subchapter also establishes standards for the Board to certify compliance with this program.]

This subchapter implements the provisions authorized under section 471.1 of the Liquor Code (47 P.S. § 4-471.1).

§ 5.202. Definitions.

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

Alcohol service personnel—Any employe of a licensee such as a bartender, waiter or, in the case of a distributor or importing distributor, a salesperson whose primary responsibility includes the resale, furnishing or serving of liquor or malt or brewed beverages. It shall also mean any employe, such as a doorperson, whose primary responsibility is to ascertain the age of individuals who are attempting to enter the licensed premises.

Alternative curriculum—Curriculum for server/seller training that was developed by an entity other than the Bureau of Alcohol Education.

BAE—Bureau of Alcohol Education—The office in the [Board] PLCB that is responsible for administering the Responsible Alcohol Management Program (RAMP).

[**Certify**—To approve and confirm the approval in writing.]

[**Instructor**—An individual who is certified by the Board to instruct students, including licensees, owners, managers, servers, sellers and members of the public, in responsible server practices.] **Classroom instructor**—An individual who is authorized by the PLCB to instruct students on server/seller training in a classroom setting where the instructor and the students are physically present.

Designated employe—An employe of a licensee whose primary job for the licensee is employe training or providing human resource services.

Licensee—An individual, person or entity that holds a license issued by the [Board] PLCB.

[**Manager/owner training**—Training conducted by the Board or its employees for individuals who manage or own licensed premises.]

Material change—A change that affects or impacts the substance of the curriculum or changes the order of the curriculum. A material change may

include the addition of unapproved information or the deletion of approved information.

New employee—An individual who has not been employed at the licensed premises [**seeking certification**] in any capacity during the preceding year.

Online training provider—An individual or entity who is authorized by the PLCB to provide instruction to students on server/seller training by means of the Internet.

Owner/manager training—Training conducted by the PLCB or its employees for individuals who manage or own licensed premises.

PLCB—Pennsylvania Liquor Control Board.

RAMP—Responsible Alcohol Management Program—A certification program regarding the responsible sale and service of alcohol.

[*Responsible server practices*—Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons.]

Server/seller training—Training conducted by the PLCB, a classroom instructor, or an online training provider for alcohol service personnel.

Standard curriculum—Curriculum for server/seller training that is produced and provided by the Bureau of Alcohol Education.

Student—An individual who has enrolled in a RAMP class or online training.

Training voucher—A code or password that grants permission or access to an online training program that may be purchased from an online training provider.

(*Editor's Note:* The following sections are proposed to be added and are printed in regular type to enhance readability.)

§ 5.203. Mandatory training for managers.

(a) Any manager who is required, under section 471.1(g) of the Liquor Code, to complete owner/manager training within 180 days of approval of appointment by the PLCB will be deemed to have met that training requirement if the appointed manager successfully completed the training within the 2 years prior to being appointed manager.

(b) Licensees must ensure that the manager has successfully completed owner/manager training within the past 2 years.

(c) The first time an individual enrolls in owner/manager training, he or she shall enroll and attend the owner/manager training in a classroom setting. The individual may take subsequent owner/manager training in a classroom setting or by means of online training, as preferred.

§ 5.204. Mandatory training for alcohol service personnel.

(a) Any alcohol service personnel who is required, under section 471.1(h) of the Liquor Code, to complete server/seller training within 6 months of being hired by a licensee will be deemed to have met that training requirement if the training was successfully completed within the 2 years prior to being hired by the licensee.

(b) Licensees must ensure that each member of their alcohol service personnel has successfully completed server/seller training within the past 2 years.

(c) If a licensee obtains an off-premises catering permit for use at a catered function, every employee whose primary responsibility at the catered function is to sell and/or serve alcoholic beverages or check identifications of those seeking to enter the catered function must have successfully completed server/seller training within 2 years prior to the date of the catered function.

§ 5.205. RAMP certification prerequisites.

(a) Licensees may seek RAMP certification voluntarily, may commit to obtaining certification as part of a conditional licensing agreement entered into with the PLCB, or may be required to obtain certification by a provision in the Liquor Code or as a result of an adjudicated citation.

(b) Licensees applying for RAMP certification under section 471.1 of the Liquor Code (47 P.S. § 4-471.1) must complete the following prerequisites:

(1) *Owner/manager training.*

(i) At least one owner or the PLCB-approved manager must complete the owner/manager training.

(ii) The first time an individual enrolls in owner/manager training, he or she shall enroll and attend the owner/manager training in a classroom setting. The individual may take subsequent owner/manager training in a classroom setting or by means of online training, as preferred.

(iii) Training will include instruction on proper service of alcohol, developing an alcohol service policy and establishing house rules and policies aimed at preventing sales of alcoholic beverages to minors or visibly intoxicated persons. Instruction will also be provided on identification checks and signs of visible intoxication. Instruction will be provided on techniques to ensure that employees are complying with house rules and policies, including the orientation of new and current employees and the documentation of incidents occurring in the workplace.

(iv) Owner/manager training will be conducted by the PLCB. The PLCB will maintain records establishing the names of individuals who have successfully undergone owner/manager training.

(2) *Server/seller training.*

(i) At least 50% of the licensee's alcohol service personnel must successfully complete server/seller training at the time of filing the application for certification of compliance. This percentage must be maintained or RAMP certification may be rescinded.

(ii) Successful completion of server/seller training is a score of 80% or better on the PLCB's final examination.

(iii) Training will include instruction on detecting signs of impairment and intoxication, identifying underage individuals, and detecting false identifications, including those that are altered, counterfeit or borrowed. Instruction will focus on the practical application of the skills necessary to properly check identification, prevent intoxication and refuse service.

(3) *New employee orientation.*

(i) When preparing to apply for RAMP certification or renewal of RAMP certification, the licensee's owner, manager or designated employee must review an orientation checklist with all alcohol service personnel. The orientation checklist, provided by the PLCB, addresses the liquor

laws regarding service to minors, service to visibly intoxicated patrons, acceptable forms of identification, carding practices and house policies.

(ii) When new employees are hired, the licensee is responsible for ensuring that the owner, manager or designated employee conducts new employee orientation within 30 days of the employee's hire.

(iii) Once completed, orientation checklists should be kept by the licensee throughout the person's employment and for 2 years after separation from employment.

(4) *Display of responsible alcohol service signage.*

(i) Licensees must post signs in the licensed premises. The signs will be provided by the PLCB, although a licensee may use its own signs as long as they are equivalent in size and content to the PLCB's signs.

(ii) The following signs must be posted, notifying patrons about:

(A) Acceptable forms of identification as described in section 495(a) of the Liquor Code (47 P.S. § 4-495(a)).

(B) The licensee's duty to refuse service to minors and visibly intoxicated persons under section 493(1) of the Liquor Code (47 P.S. § 4-493(1)).

(iii) The design of the signs must be so that they are legible from a distance of at least 10 feet. Signs must be located where patrons will easily see them.

(iv) The licensee is responsible for the posting and maintenance of signs.

§ 5.206. RAMP certification.

(a) After a licensee has completed the prerequisites of RAMP certification as set forth in § 5.205 (relating to RAMP certification prerequisites), the licensee may file an application with the PLCB for RAMP certification. There is no fee for applying for certification or recertification.

(1) If the PLCB finds that the licensee has satisfied the prerequisites, the PLCB will approve the application for certification of the licensee.

(2) RAMP certification is valid for 2 years. The PLCB will issue a notice of certification to the licensee that will advise the licensee of the date that the certification will expire.

(3) The licensee must continually satisfy the certification requirements during that period or certification may be rescinded.

(b) If the PLCB finds that the licensee has not satisfied the prerequisites, the PLCB will deny the application for certification of the licensee.

(1) If the licensee was required to obtain RAMP certification as a result of an adjudicated citation or by the terms of a conditional licensing agreement, but failed to do so, the PLCB will refer the matter to the Pennsylvania State Police, Bureau of Liquor Control Enforcement.

(c) The Office of Administrative Law Judge shall take official notice of the PLCB's records with regard to the licensee's certification. The PLCB's certification of a licensee's status as being RAMP compliant shall create a rebuttable presumption that the licensee is RAMP compliant.

§ 5.207. Records.

(a) A licensee that has obtained RAMP certification shall keep the following records:

(1) A current list of all members of the licensee's alcohol service personnel, including the name of the employee, date of hire, date of training (owner/manager and server/seller) and date of new employee orientation.

(2) Date of licensee's certification.

(3) New employee orientation checklist(s), as explained in § 5.205(b)(3) (relating to RAMP certification prerequisites).

(4) Responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted.

(b) These records shall be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code (47 P.S. § 4-493(12)).

[COURSE OF STUDY] CURRICULUM FOR SERVER/SELLER TRAINING

§ 5.211. [Course of study for alcohol service personnel] Curriculum for server/seller training.

[(a) A standard curriculum for the course of study will be provided by the BAE.

(b) The BAE is authorized to review curriculum submitted by another training provider and to certify the curriculum if it is equivalent to or exceeds the BAE's standard curriculum. A request for review of curriculum must be accompanied by a nonrefundable \$250 application fee.

(1) In the event that the training provider's curriculum is not equivalent to or does not exceed the BAE's standard curriculum, the BAE will advise the training provider in writing within 90 days of receiving the curriculum and fee as to subjects where the training provider's curriculum is deficient.

(2) The training provider has the opportunity to correct and resubmit its curriculum no more than two times. Curriculum resubmitted under this subsection does not require the payment of an additional fee.

(3) If the training provider's curriculum is still deficient after the second and final resubmission, the BAE will not accept submissions or resubmissions from the training provider for 1 year from the date that the BAE sent notification to the training provider that the second resubmission was deficient.]

Any individual or entity that wants to offer server/seller training must use the standard curriculum provided by the Bureau of Alcohol Education or an alternative curriculum that has been approved for use by the PLCB.

(Editor's Note: The following sections are proposed to be added and are printed in regular type to enhance readability.)

§ 5.212. Standard curriculum.

(a) The PLCB makes available, on the BAE's page on the PLCB's web site, an electronic link to the PLCB's standard curriculum and a manual to be used by students. If an individual or entity requests the PLCB to provide this information in hard copy by means of mail, the PLCB will assess a flat fee, pursuant to an established fee schedule, for printing and mailing the information. The fee schedule will be published on the BAE's page on the PLCB's web site.

(b) The standard curriculum includes instruction on detecting signs of impairment and intoxication, identifying underage individuals, and detecting false identifications, including those that are altered, counterfeit or borrowed. Instruction will focus on the practical application of the skills necessary to properly check identification, prevent intoxication and refuse service.

§ 5.213. Alternative curriculum.

(a) The PLCB makes available, on the BAE's page on the PLCB's web site, an electronic link to guidelines for submitting an alternative curriculum to be approved by the PLCB, along with an electronic link to the most current version of the PLCB's Web Trainee Transfer Service requirements. If an individual or entity requests the PLCB to provide this information in hard copy via mail, the PLCB will assess a flat fee, pursuant to an established fee schedule, for printing and mailing the information. The fee schedule will be published on the BAE's page on the PLCB's web site.

(b) The PLCB is authorized to approve the use of an alternative curriculum and student manual developed by another person or entity for use by an online training provider or a classroom instructor. An application for approval of the alternative curriculum and student manual must be accompanied by a nonrefundable \$250 application fee. The PLCB may approve the use of the alternative curriculum and student manual if they are equivalent to or exceed the PLCB's standard curriculum.

(c)(1) In the event that the alternative curriculum and student manual are not equivalent to or do not exceed the PLCB's standard curriculum and student manual, the PLCB will advise the applicant in writing as to the deficiencies within 90 days of receiving the alternative curriculum, student manual and fee.

(2) The applicant will have 60 days from the date of the notification to complete the required changes to the alternative curriculum and resubmit it for evaluation. If the alternative curriculum and student manual still do not meet or exceed the PLCB's standard curriculum and student manual, the PLCB will again advise the applicant in writing as to the deficiencies. The applicant will then have 30 days from the date of the second notification to complete the required changes to the online training program and provide access to the PLCB for a final evaluation of the alternative curriculum. The resubmission under this subsection does not require the payment of an additional fee.

(i) If the alternative curriculum still includes deficiencies after the third submission to the PLCB, the PLCB will send a notice to the applicant by United States mail that the alternative curriculum will not be approved and that the application is closed. No refund will be given to the applicant.

(ii) The PLCB will not accept, for a minimum of 1 year from the date of the notice advising the applicant that the application was closed, another application for alternative curriculum approval from the applicant. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site.

(3) If the applicant has rectified the deficiencies in the alternative curriculum and student manual and they are approved by the PLCB, the applicant shall submit a clean, final copy of the approved alternative curriculum and the student manual.

ONLINE TRAINING PROVIDERS AND PROGRAMS FOR SERVER/SELLER TRAINING

§ 5.221. Online training provider application.

(a) A person who wants to become an authorized online training provider of server/seller training shall submit an application for authorization issued by the PLCB and pay a nonrefundable application fee of \$850, as well as a separate fee for a criminal record check.

(1) The PLCB will only accept applications during scheduled open enrollment periods, which shall be posted on the BAE's page on the PLCB's web site. The PLCB reserves the discretion to limit the number and frequency of open enrollment periods based on operational restrictions.

(b) The minimum qualifications of an online training provider are the same as the minimum qualifications of a classroom instructor, as set forth in § 5.231(b) (relating to classroom instructor application), except that online training providers are not required to attend owner/manager training.

(c) The applicant shall submit, for approval, a proposed online training program that must be approved by the PLCB before the PLCB will issue a notice of authorization to the online training provider.

§ 5.222. Online training program approval process.

(a) The online training program must be based on the PLCB's standard curriculum or an alternative curriculum that has been approved by the PLCB.

(1) Within 120 days of receiving the standard curriculum or approval to use an alternative curriculum, the applicant shall provide the PLCB with access to the proposed online training web site, including necessary login information for the purpose of viewing content and testing the web site.

(2) If the applicant requires more than 120 days to provide the PLCB with access to the proposed online training web site, the applicant may request an extension in writing, by letter or by e-mail. The PLCB may grant a 30-day extension for temporary, nonrecurring exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(3) If the applicant does not provide the PLCB access to the proposed online training web site by the deadline provided by the PLCB, the application will be denied and no refund will be given to the applicant.

(b) Upon receipt of the applicant's proposed online training program, the PLCB will review and test the proposed online training program. While the online training program is under review by the PLCB, the applicant may not advertise the availability of the online training program or provide public access to the online training program.

(c) The PLCB will determine whether an applicant's online training program meets the minimum standards set forth in § 5.223 (relating to minimum standards of the online training program).

(d) After the initial evaluation, the PLCB will, if necessary, notify the applicant of any required changes that need to be made to the online training program. The applicant will have 60 days from the date of the notification to complete the required changes to the online training program and provide access to the PLCB for a second evaluation of the online training program.

(e) After the second evaluation, the PLCB will, if necessary, again notify the applicant of any required changes that need to be made to the online training program. The applicant will have 30 days from the date of the notification to complete the required changes to the online training program and provide access to the PLCB for a final evaluation of the online training program.

(1) If the online training program still requires changes after the third submission to the PLCB, the PLCB will send a notice to the applicant by United States mail that the online training program will not be approved and that the application is closed. No refund will be given to the applicant.

(2) The PLCB will not accept, for a minimum of 1 year from the date of the notice advising the applicant that the application was closed, another application for online training program approval from the applicant. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site. See § 5.221(a) (relating to online training provider application).

(f) If the applicant meets the minimum requirements and the PLCB has approved that person's proposed online training program, the PLCB will issue to the online training provider a notice of authorization.

(g) The period of authorization shall be 1 year from the date of issuance of the notice of authorization. The renewal of authorization is addressed in § 5.225 (relating to renewal of authorization).

§ 5.223. Minimum standards of the online training program.

(a) *Program features.*

(1) The program content for the online training program must be either the standard curriculum or an approved alternative curriculum. Material changes to the curriculum may not be made without the approval of the PLCB.

(2) The online training program must cover topics required by the PLCB. The topics must be grouped into training modules. For some topics, the online training program must include mandatory language. The required topics, the mandatory language and the PLCB's final examination will be made available to the applicant by the PLCB.

(3) The online training program must include knowledge checks at the end of each training module. Knowledge checks ensure that a student is properly reviewing and understanding the program content. The online training program must require a student to correctly answer questions based on course content. Such questions should be designed to evaluate the student's comprehension of each training module before students are permitted to advance to the next training module.

(4) The online training program must use the PLCB's final examination.

(5) The online training program must consist of at least 1 1/2 hours of instructional time.

(6) The online training program must contain any disclaimers required by the PLCB, which the PLCB will provide to the applicant.

(b) *Program availability.*

(1) Every online training provider shall make its online training program available to the general public.

(2) An online training provider shall require a student to register for the online training program by using specific personal identifiers provided by the PLCB.

(i) The online training program must provide the opportunity for a student to confirm and edit the information submitted in the registration process before proceeding.

(ii) The registration process must require the student to provide an e-mail address.

(iii) As soon as the student has completed the registration process, the online training program must send the student an e-mail confirming his or her registration with that online training program. The e-mail must include a hyperlink to the online training program.

(3) If the online training provider offers training vouchers for licensees to purchase for the future use of the licensee's employees, the online training provider's web site must meet the requirements set forth in § 5.226 (relating to training vouchers).

(c) *Program functionality.*

(1) All text on each page or screen of the online training program must be narrated.

(2) Each page or screen of the online training program must be numbered.

(3) Each page or screen of the online training program must be timed so that a student may not advance to the next page or screen without having sufficient opportunity to review the contents of the current page or screen.

(4) Knowledge checks must be incorporated throughout the training.

(5) The online training program must require the student to answer security questions during registration that will be used, at random intervals, to validate student identity and participation throughout the course.

(6) The online training program must allow a student to pause and review previous pages or screens at any time.

(7) The online training program must allow a student to save progress in the program content, log out and resume the online training program at a later time. Once the student has begun the final examination, however, logging out of the training program must not be permitted, as explained in subsection (d)(1)(i).

(d) *Final Examination.*

(1) At the conclusion of the online training program, the student shall be required to complete the PLCB's final examination.

(i) The student shall have one attempt at the final examination. The student shall not be permitted to log out of the final examination and resume the final examination at a later time.

(ii) Questions in the PLCB's final examination must be randomized by the online training provider.

(iii) The student shall not be able to print the final examination.

(2) The online training program must immediately score the final examination and immediately notify the student of that score. A score of 80% or better is required to pass the final examination.

(i) The online training program must be able to allow a student who receives a passing score on the final examination to print a certificate of completion provided by the PLCB.

(ii) A student who does not receive a passing score on the final examination may re-register for an online training program. However, the student may not retake the final examination without taking the online training program again.

(3) The online training program must provide each student with access to a manual.

(i) If the online training program is using the PLCB's standard curriculum, then the student shall be provided with the manual for that curriculum.

(ii) If the online training program is based on an alternative curriculum that has been approved by the PLCB, then the student shall be provided with the manual for that curriculum.

(iii) Manuals may not be printed until the conclusion of the final examination.

(iv) Manuals may not be provided to anyone not participating in an approved online training program.

(e) *Security and technology.*

(1) The online training program must comply with the most current version of the PLCB's Web Trainee Transfer Service requirements, as referenced in § 5.222(a) (relating to online training program approval process).

(2) The online training program must encrypt, at all times, any personally identifiable information protected by law, including but not limited to a student's social security number or date of birth. The online training provider shall not sell or use such information for any purpose other than for identification by the online training provider and verification by the PLCB.

(3) The online training program must comply with any and all applicable Federal and State laws and regulations related to information security.

§ 5.224. Online training provider responsibilities.

Online training providers have the responsibility to do the following:

(1) Using the standard curriculum provided by the PLCB, or an alternative curriculum approved by the PLCB, provide students, by means of an online training program, with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees.

(2) Provide the PLCB with unlimited vouchers or pass codes that will allow the PLCB to access the online training program free of charge for review purposes.

(3) Train at least 225 students per year. Online training providers may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the PLCB. The PLCB will waive the requirements for minimum training activity for online training providers due to temporary, nonrecurring exigencies, such as online training provider illness or family emergency, bad weather or other circumstances beyond the online training provider's control.

(4) Provide accurate records of a student's completion of online training to the PLCB immediately following the online training by electronically transmitting the necessary electronic data regarding the student.

(i) Records must be sent in real-time or in frequent batch submissions not more than 15 minutes after completion of the final examination.

(ii) The online training provider shall monitor submissions daily and resolve, within 24 hours, any error

message received from the PLCB indicating that the submission was not processed. If the error message cannot be resolved within 24 hours, the online training provider shall immediately notify the PLCB.

(iii) The online training provider shall maintain all records of online training sessions for a minimum of 2 years.

(5) Attend instructor meetings as scheduled by the PLCB.

(6) Refer all questions relating to course content to the PLCB.

(7) Provide technical support to students via telephone, internet chat exchange or e-mail. Technical support must be timely and accurate. Any technical support inquiry from a student must be resolved within 1 business day.

(8) Acknowledge or respond to e-mails, telephone calls or any other contacts placed by the PLCB, licensees and/or trainees within 48 hours.

(9) Submit all forms of correspondence used for marketing purposes to the PLCB for approval prior to dissemination. An online training provider shall not use any forms of correspondence for marketing purposes that have not been approved by the PLCB.

(10) With regard to changes to program content:

(i) Make required changes to written program content within 24 hours of being notified by the PLCB.

(ii) Block public access to the program content until the required changes have been made and approved by the PLCB.

(iii) Refrain from making material changes to online training program content without being required to do so by the PLCB or without receiving approval from the PLCB to make the material changes.

(A) If the online training provider wants to make a material change to the online training program, the online training program must be submitted for review and approval, along with a nonrefundable fee of \$850, unless the changes were required by the PLCB.

(11) With regard to security and technology:

(i) Provide the PLCB with not less than 30 calendar days' notice of any system enhancements or modifications, including upgrades and new versions and releases.

(ii) Report, in accordance with the Breach of Personal Information Notification Act (73 P.S. §§ 2301—2329), any breach of system security or unauthorized release of personally identifiable information.

(iii) Report to the PLCB, within 24 hours, any system failure that prevents compliance with any of the requirements of this regulation.

(iv) Ensure the correction of a system failure within 7 calendar days.

(12) Notify the PLCB within 7 days of a change in the online training provider's telephone number, e-mail address or physical address and provide the PLCB with the new telephone number, e-mail address or physical address.

§ 5.225. Renewal of authorization.

(a) At least 30 days prior to the expiration of the online training provider's authorization, the online training provider shall submit an application for renewal of authorization, which will be provided by the PLCB.

(1) If the online training provider does not want to make material changes to the online training program from the last time it was approved by the PLCB, then a \$600 fee must accompany the online training provider's application for renewal of authorization, as well as a separate fee for a criminal record check.

(2) If the online training provider wants to make material changes to the online training program, then a \$850 fee must accompany the online training provider's application for renewal of authorization, as well as a separate fee for a criminal record check. The online training provider shall use the online training program approved by the PLCB until the notice of authorization has been renewed.

(b) The online training provider shall submit, with the application for renewal of authorization, hard copy screen shots of the most recent PLCB-approved online training program with renewal. The online training provider shall submit no more than 2 screen shots per one side of an 8 1/2 by 11 inch piece of paper. The screen shots may be in color or black and white.

(c) *Untimely applications for authorization renewal.*

(1) The PLCB may accept an application for renewal of authorization that is filed less than 30 days before the expiration of the current authorization, but not after expiration, if the applicant includes an additional filing fee of \$100.

(2) The PLCB may accept an application for renewal of authorization that is filed up to 30 days after the expiration of the current authorization if the applicant includes an additional filing fee of \$250.

(3) The PLCB will not accept applications for renewal of authorization that are filed more than 30 days after the expiration of the current authorization.

(4) As of the date of the expiration of an online training provider's authorization, the following will no longer be valid:

(i) Training that is completed by a student after the date of expiration.

(ii) Any training vouchers issued by an online training provider that have not been redeemed and training completed.

(5) The PLCB will not accept, for a minimum of 1 year from the date of expiration, an application from an online training provider whose authorization has expired. Under such circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site. See § 5.221(a) (relating to online training provider application).

§ 5.226. Training vouchers.

(a) The online training provider may sell training vouchers for future use by a licensee's employees. A licensee may purchase training vouchers in bulk for future use by its employees.

(b) Training vouchers are only valid for 60 days from the date of purchase and must indicate their expiration date.

(c) The online training provider shall ensure that its web site includes a notice, on the same page that informs the public about training vouchers, that training vouchers are only valid for 60 days from the date of purchase and must indicate their expiration date. The notice must

require the purchaser to acknowledge this information before completing the purchase of the training vouchers.

§ 5.227. Deauthorization of online training providers.

(a) The PLCB will send a notice of violation to an online training provider by certified United States mail if the online training provider is:

(1) Failing to meet the minimum standards of the online training program set forth in § 5.223 (relating to minimum standards of the online training program).

(2) Failing to meet the responsibilities set forth in § 5.224 (relating to online training provider responsibilities).

(3) Engaging in prohibited conduct set forth in § 5.251 (relating to additional prohibited conduct).

(b) The notice of violation will give the online training provider a deadline by which the violation must be remedied. The amount of time given to remedy the violation will vary depending upon the complexity of the circumstances and may be up to 60 days. The notice of violation may advise the online training provider that its authorization is temporarily suspended, pending resolution of the violation.

(c) If the violation is not remedied by the deadline, or if the PLCB has grounds to issue a second notice of violation within the same authorization year as the first notice of violation, the PLCB will send a notice of deauthorization to an online training provider by certified United States mail. An appeal of the PLCB's decision to deauthorize shall be in accordance with 1 Pa. Code §§ 31.1—35.251 (relating to General Rules of Administrative Practice and Procedure).

(1) As of the date of the PLCB's notice of deauthorization to an online training provider, the following will no longer be valid:

(i) Training that is completed by a student after the date of the PLCB's notice of deauthorization.

(ii) Any training vouchers issued by an online training provider that have not been redeemed and training completed.

(d) The PLCB will not accept, for a minimum of 1 year from the notice of deauthorization, an application from an online training provider that has been issued a notice of deauthorization. Under such circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.221(a) (relating to online training provider application).

CLASSROOM INSTRUCTORS OF SERVER/SELLER TRAINING

§ 5.231. [Instructor application] Classroom instructor application.

[The BAE will have a procedure, as set forth in this section, to confirm a person's competency to begin and continue working as an instructor. Part of this procedure will include observation of the instructor's training sessions by representatives of the BAE at least twice per year.

(1) (a) A person desiring [certification as an authorization to be a classroom instructor shall submit an application [on forms] issued by the [Board] PLCB and pay a [\$250] \$500 nonrefundable application fee, as well as a fee for a criminal record check.

(1) The PLCB will only accept applications during scheduled open enrollment periods. The PLCB reserves the discretion to limit the number and frequency of open enrollment periods based on operational restrictions.

[(2)] (b) The minimum qualifications of [an] a classroom instructor include the following:

[(i)] (1) Possessing a high school diploma or GED.

[(ii) Possessing] (2) Within the previous 5 years, having a minimum of 2 years of experience, full-time, as a trainer or in giving presentations in the field of education, law, law enforcement, substance abuse prevention, hospitality related to hotel/restaurant management or alcohol service training or other equivalent combination of experience and training.

[(iii)] (3) Being 21 years of age or older.

[(iv)] (4) Having no [arrests] convictions that are related to alcohol, narcotics or other controlled substances and having no felony convictions in the previous 10 years.

[(v)] (5) Attending [manager/owner] owner/manager training once in the year preceding the date the application for instructor [certification] authorization is filed. Classroom instructors shall attend the owner/manager training in a classroom setting.

[(3) If a person who has submitted a completed application meets the minimum requirements for certification, the Board will issue to the instructor a Notice of Certification. The period of certification shall be 1 year from the date of issuance of the Notice of Certification.

(4) Renewal of certification shall be submitted to the BAE at least 30 days prior to the expiration of the classroom instructor's current certification. The forms shall be provided by the BAE. A \$250 fee must accompany an application for renewal.]

§ 5.232. [Instructor responsibilities] Classroom instructor approval process.

[Instructors have the responsibility to do the following:

(1) Using the standard curriculum provided by the BAE or a curriculum certified by the BAE, provide students with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees.

(2) Schedule training sessions in locations throughout this Commonwealth.

(3) Conduct at least two training sessions per quarter and train at least 225 students per year. Instructors may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the BAE. The BAE will waive the requirements for minimum training activity for instructors due to temporary, nonrecurrent exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(4) Provide accurate records of attendance and course completion, as required under § 5.233(c) (relating to minimum standards of training), to the BAE within 7 calendar days following each training session through the BAE's web site. Original atten-

dance sheets shall be submitted to the BAE by first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

(5) Attend instructor meetings twice per year as scheduled by the BAE.

(6) Attend manager/owner training at least once per year.]

(a) Applicants shall attend a 2 day mandatory training session in Harrisburg before the PLCB will issue a notice of authorization. An applicant who does not attend and complete the 2 day training session will be disqualified from consideration as a classroom instructor.

(b) The PLCB shall issue a notice of authorization to those applicants who have successfully completed the training session. The period of authorization shall be 1 year from the date of issuance of the notice of authorization. The classroom instructor is required to successfully complete a probationary period.

(1) Within the first 3 months of probation, the PLCB will evaluate the classroom instructor at least once. There are five possible evaluation ratings: Outstanding, Commendable, Satisfactory, Needs Improvement, or Unsatisfactory.

(i) The classroom instructor must receive an "Outstanding," "Commendable" or "Satisfactory" rating in order to successfully complete the probationary period.

(ii) If the classroom instructor receives a "Needs Improvement" rating, the classroom instructor will be re-evaluated by the PLCB at any time within the next 3 months. Upon re-evaluation, the classroom instructor must receive an "Outstanding," "Commendable" or "Satisfactory" rating in order to successfully complete the probationary period. If the classroom instructor does not, the PLCB will terminate the classroom instructor's notice of authorization.

(iii) If the classroom instructor receives an "Unsatisfactory" rating, the PLCB will terminate the classroom instructor's notice of authorization.

(iv) "Termination" will be treated the same as deauthorization for purposes of § 5.236 (relating to deauthorization of classroom instructors).

§ 5.233. Minimum standards of classroom training.

(a) [Instructors] A classroom instructor shall conduct training sessions conforming to either the [BAE's] PLCB's standard curriculum or [a] an alternative curriculum [certified] approved by the [BAE] PLCB. A classroom instructor shall adhere to either the standard curriculum or an alternative curriculum approved by the PLCB.

(1) Each training session must consist of at least 2 1/2 hours of uninterrupted instructional time, not including time spent reviewing information with students or administering the final examination. Each training session must be taught in one session from start to finish.

(2) The ratio of students per classroom instructor may not exceed 40 to 1.

(b) [Instructors] A classroom instructor shall notify the [BAE] PLCB of the following:

(1) At least 7 calendar days in advance of scheduling any training session. **[Instructors] A classroom instructor** shall provide notification to the BAE through the BAE's **[web site] page on the PLCB's web site.**

(2) Immediately of any training session cancellation. **[Instructors] A classroom instructor** shall provide notification to the **[BAE] PLCB** by **[first class United States mail, other delivery or express service, transmission by facsimile] telephone** or by e-mail.

(3) Immediately of any changes to the training schedule. **[Instructors] A classroom instructor** shall provide notification to the **[BAE] PLCB** by **[first class United States mail, other delivery or express service, transmission by facsimile] telephone** or by e-mail.

(c) **[Instructors] A classroom instructor** shall obtain the student information indicated **below** in paragraphs **[(1)—(3)] (1)—(4)** at the beginning of the training session. **[An instructor] A classroom instructor** shall send a completed attendance sheet to the **[BAE] PLCB** within 7 days of the end of the training session, including the following information from each student:

- (1) Name.
- (2) Home address **and e-mail address.**
- (3) **[Home telephone] Telephone** number.
- (4) Student identification number issued by the **[BAE] PLCB.**

[(5) Pass/fail score on the test.

(6) Licensed establishment name, address and licensee identification.

(7) Time and location of training.]

(5) Licensed establishment name, address and licensee identification.

(6) Time, date and location of training.

(7) Pass/fail score on the test.

(d) At the conclusion of the training, the **classroom instructor** shall administer a **[standardized test] final examination** prepared by the **[BAE] PLCB**, **[insuring] ensuring** that students complete the **final examination individually**, as a closed book **[exam] examination**, without access to references **or assistance from others** to aid in the completion of the **final examination.**

(e) The **classroom instructor** shall grade **the final examinations** and notify students of their grades. A **[test]** score of 80% or better is required to pass. **The classroom instructor shall provide a standard participant wallet card to each student who passes the final examination. These wallet cards are provided to the classroom instructor by the PLCB.** A student who does not pass **the final examination** may, at the first opportunity, schedule training and take the **[test] final examination** again. **However, the student may not retake the final examination without receiving the training again.**

(Editor's Note: The following sections are proposed to be added and are printed in regular type to enhance readability.)

§ 5.234. Classroom instructor responsibilities.

Classroom instructors have the responsibility to do the following:

(1) While on probationary status, the classroom instructor shall adhere to all of the PLCB's Regulations and Probationary Status Instructor policies that will be provided by the PLCB.

(2) Using the standard curriculum provided by the PLCB, or an alternative curriculum approved by the PLCB, provide students with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees. Classroom instructors shall provide each student with a student manual that corresponds to the standard curriculum or an alternative curriculum approved by the PLCB.

(i) A classroom instructor shall refrain from making any modifications or changes to the standard curriculum without being required to do so by the PLCB.

(ii) A classroom instructor shall refrain from making any modifications or changes to an alternative curriculum without first receiving approval from the PLCB to make the proposed modifications or changes.

(iii) If the classroom instructor wants to revise the alternative curriculum, the curriculum must be submitted for review and approval, along with a nonrefundable fee of \$250, unless the changes were required by the PLCB.

(3) Schedule training sessions in locations throughout this Commonwealth.

(4) Conduct at least two training sessions per quarter and train at least 225 students per year. Classroom instructors may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the PLCB. The PLCB will waive the requirements for minimum training activity for instructors due to temporary, nonrecurring exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(5) Provide accurate records of attendance and course completion, as required under § 5.233(c) (relating to minimum standards of classroom training), to the PLCB within 7 calendar days following each training session through the BAE's page on the PLCB's web site. Original attendance sheets must be submitted to the PLCB by first class United States mail, other delivery or express service or by e-mail.

(6) Attend instructor meetings as scheduled by the PLCB.

(7) Attend in-class owner/manager training at least once per year.

(8) Acknowledge or respond to e-mails, telephone calls or any other contacts placed by the PLCB, licensees and/or trainees within 48 hours.

(9) Submit all forms of correspondence used for marketing purposes to the PLCB for approval prior to dissemination. A classroom instructor shall not use any forms of correspondence for marketing purposes that have not been approved by the PLCB.

(10) Notify the PLCB within 7 days of a change in the classroom instructor's telephone number, e-mail address or physical address and provide the PLCB with the new telephone number, e-mail address or physical address.

§ 5.235. Renewal of authorization.

(a) At least 30 days prior to the expiration of the classroom instructor's authorization, the classroom in-

structor shall submit an application for renewal of authorization, which will be provided by the PLCB. A \$300 fee must accompany the classroom instructor's application for renewal of authorization, as well as a separate fee for a criminal record check.

(b) If the classroom instructor is using an alternative curriculum, the classroom instructor shall submit a copy of the most recently PLCB-approved curriculum with the application for renewal of authorization. If the classroom instructor is using the standard curriculum, the classroom instructor need not submit a copy of the standard curriculum with the application for renewal of authorization.

(1) If the classroom instructor does not want to make material changes to the alternative curriculum from the last time it was approved by the PLCB, no additional fee is required.

(2) If the classroom instructor wants to make material changes to the alternative curriculum, then an additional \$250 fee, for a total of \$550, must accompany the classroom instructor's application for renewal of authorization. The classroom instructor shall use the alternative curriculum approved by the PLCB until the notice of authorization has been renewed.

(c) *Untimely applications for authorization renewal.*

(1) The PLCB may accept an application for authorization renewal that is filed less than 30 days before the expiration of the current authorization, but not after expiration, if the applicant includes an additional filing fee of \$100.

(2) The PLCB may accept an application for authorization renewal that is filed up to 30 days after the expiration of the current authorization if the applicant includes an additional filing fee of \$250.

(3) The PLCB will not accept applications for renewal that are filed more than 30 days after the expiration of the current authorization.

(4) The PLCB will not accept, for a minimum of 1 year from the date of expiration, an application from an classroom instructor whose authorization has expired. Under such circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.231(a) (relating to classroom instructor application).

§ 5.236. Deauthorization of classroom instructors.

(a) The PLCB will send a notice of violation to a classroom instructor by certified United States mail if the classroom instructor is:

(1) Failing to meet the minimum standards of classroom training set forth in § 5.233 (relating to minimum standards of classroom training).

(2) Failing to meet the responsibilities set forth in § 5.234 (relating to classroom instructor responsibilities).

(3) Engaging in prohibited conduct set forth in § 5.251 (relating to additional prohibited conduct).

(b) The notice of violation will give the classroom instructor a deadline if the violation can be remedied. The amount of time given to remedy the violation will vary depending upon the complexity of the circumstances.

(c) If the violation is not remedied by the deadline, or if the PLCB has grounds to issue a second notice of violation within the same authorization year as the first notice of violation, the PLCB will send a notice of deauthorization to the classroom instructor by certified

United States mail. An appeal of the PLCB's decision to deauthorize shall be in accordance with 1 Pa. Code §§ 31.1—35.251 (relating to General Rules of Administrative Practice and Procedure).

(d) The PLCB will not accept, for a minimum of 1 year from the notice of deauthorization, an application from a classroom instructor that has been issued a notice of deauthorization. Under such circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.231(a) (relating to classroom instructor application).

[TRAINING/ORIENTATION]

§ 5.241. [**Manager/owner training**] Reserved.

[**(a) Manager/owner training will be conducted by the BAE.**

(b) Training must include instruction on proper service of alcohol, developing an alcohol service policy and establishing house rules and policies aimed at preventing sales of alcoholic beverages to minors or visibly intoxicated persons. Instruction shall also be provided on identification checks and signs of visible intoxication. Instruction shall be provided on techniques to assure that employees are complying with house rules and policies, including the orientation of new and current employees and the documentation of incidents occurring in the workplace.

(c) For 2 years, the Board will maintain records establishing the names of individuals who have successfully undergone manager/owner training.]

§ 5.242. [**New employee orientation**] Reserved.

[**(a) Licensees applying for certification of compliance under section 471.1 of the Liquor Code (47 P.S. § 4-471.1) shall conduct new employee orientation within 30 days of the employee's hire, in accordance with a checklist of responsible server practices provided by the BAE including:**

(1) Penalties for furnishing or selling alcohol to minors.

(2) Acceptable forms of identification as defined in section 495(a) of the Liquor Code (47 P.S. § 4-495(a)).

(3) Practices for checking identification to prevent the service of alcohol to minors, which is prohibited under section 493(1) of the Liquor Code (47 P.S. § 4-493(1)).

(4) Penalties for furnishing or selling alcohol to visibly intoxicated persons.

(5) Practices for refusing service of alcohol to visibly intoxicated persons.

(6) Procedures for handling situations where criminal activity, such as drug activity, assaults or fights, loitering and prostitution, is occurring in or about the premises.

(b) The licensee is responsible for ensuring that the owner or manager conducts the new employee orientation.]

§ 5.243. [Records] Reserved.

[(a) The licensee shall keep the following records:

(1) Certification status of its employees, managers and owners, consisting of the name of the employee, manager or owner, date of hire, date of training and the name of the trainer.

(2) Date of premises certification.

(3) Records of its new employee orientation program.

(4) Responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted.

(b) These records shall be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code (47 P.S. § 4-493(12)).]

ADDITIONAL PROHIBITED CONDUCT

§ 5.251. [Prohibited] Additional prohibited conduct.

[(a)] The [Board] PLCB may [decertify] deauthorize classroom instructors or online training providers for violating any of the provisions of this subchapter or engaging in the following conduct:

(1) Discrimination or harassment based on age, race, sex, disability, national origin or religion, or any other protected class under the Pennsylvania Human Relations Act, 43 P.S. §§ 951—963.

(2) An act that is in violation of the Liquor Code or this title.

(3) An act resulting in a misdemeanor or felony conviction.

(4) An act resulting in admittance into an Accelerated Rehabilitative Disposition (ARD) program if the underlying activity is related to alcoholic beverages, narcotics or controlled substances.

(5) Being under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, [examinations or] breaks, or the final examination.

(6) Knowingly permitting students to be under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, [examinations or] breaks, or the final examination.

(7) Cheating or condoning cheating by students.

(8) Knowingly providing false information on reports submitted to the [Board] PLCB.

[(9) Having an unacceptable evaluation regarding the presentation of the course of study from class observations conducted by the BAE. An unacceptable evaluation will result from conduct including, but not limited to, the following:

i. Failing to satisfactorily carry out the instructor's responsibilities in § 5.232 (relating to instructor responsibilities).

ii. Failing to meet the minimum standards of training in § 5.211 (relating to course of study for alcohol service personnel).

iii. Failing to provide students with current and accurate information.

iv. Failing to provide accurate records of attendance and course completion to the BAE.

v. Failing to conduct at least 2 1/2 hours of instructional time in each training.

vi. Exceeding the ratio of students per instructor.

vii. Failing to properly administer the standardized test prepared by the BAE.

(b) The Board will send a Notice of Decertification to an instructor by certified United States mail. An appeal of the Board's decision to decertify an instructor shall be as set forth in 2 Pa.C.S. § 702 (relating to appeals).

(c) The Board will not consider application for recertification until 1 year after the date of decertification.]

[SIGNS]

§ 5.261. [Signs] Reserved.

[(a) Signs for posting in the licensed premises will be provided by the Board. A licensee may use its own signs provided that they are equivalent in size and content to the Board's signs.

(b) The following signs must be posted, notifying patrons about:

(1) Acceptable forms of identification as described in section 495(a) of the Liquor Code (47 P.S. § 4-495(a)).

(2) The licensee's duty to refuse service to minors and visibly intoxicated persons under section 493(1) of the Liquor Code (47 P.S. § 4-493(1)).

(c) The design of the signs must be so that they are legible from a distance of 10 feet. Signs must be located where patrons will easily see them.

(d) The licensee is responsible for the posting and maintenance of signs.]

[CERTIFICATION]

§ 5.271. [Premises certification] Reserved.

[(a) A licensee may request that the Board certify that it complies with section 471.1 of the Liquor Code (47 P.S. § 4-471.1). The request may be made by personal contact, telephone or written communication to the BAE. Written communication includes first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

(b) Certification or recertification will be issued by the Board after investigation and approval of the licensed premises.

(c) There is no fee for certification or recertification.

(d) If the Board finds that a licensee has met the requirements under section 471.1 of the Liquor Code, the licensee will be issued a certificate of compliance valid for 2 years.

(e) If the Board finds that a licensee has not met the requirements under section 471.1 of the Liquor Code or this subchapter, and the licensee's compliance with section 471.1 of the Liquor Code or this

subchapter was not mandated by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse certification or decertify the licensee.

(f) If the Board finds that a licensee has not met the requirements under section 471.1 of the Liquor Code or this subchapter and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was required by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse the application for certification or decertify the licensee and refer the matter to the Pennsylvania State Police, Bureau of Liquor Control Enforcement.

(g) The Board will send a Notice of Decertification to the licensee by certified United States mail. Appeal of the Board's decision to decertify a licensee shall be as set forth in 2 Pa.C.S. § 702 (relating to appeals).

(h) A licensee may apply for recertification at any time after the date of decertification.

(i) The Office of Administrative Law Judge will take official notice of the Board's records with regard to the licensee's certification.]

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