

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### STATE BOARD OF NURSING

##### [ 49 PA. CODE CH. 21 ]

##### Fees; General Provisions

The State Board of Nursing (Board) and the Acting Commissioner of Professional and Occupational Affairs (Commissioner) jointly amend §§ 21.5, 21.147, 21.253, 21.705 and 21.805 to read as set forth in Annex A. This final-form rulemaking provides for new and increased application fees and increased biennial renewal fees for Licensed Practical Nurses (LPN), Registered Nurses (RN), Certified Registered Nurse Practitioners (CRNP), Licensed Dietitian-Nutritionists (LDN) and Clinical Nurse Specialists (CNS), as well as new and increased application fees relating to nursing education programs.

##### *Effective Date*

The amendments will be effective upon publication of this final-form rulemaking in the *Pennsylvania Bulletin*. New and increased application fees will be implemented immediately upon publication. It is anticipated that the increased biennial renewal fees will begin with the October renewal cohort in Fiscal Year (FY) 2019-2020.

##### *Statutory Authority*

Section 11.2(a) and (b) of The Professional Nursing Law (RN Law) (63 P.S. § 221.2(a) and (b)) and section 17.5(a) and (b) of the Practical Nurse Law (LPN Law) (63 P.S. § 667.5(a) and (b)) require the Board to fix and increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period. Additionally, section 810(a)(3) and (7) of The Administrative Code of 1929 (71 P.S. § 279.1(a)(3) and (7)) authorizes the Commissioner to issue all certificates and other official documents of the various professional and occupational examining boards and, unless otherwise provided by law, to fix the fees to be charged by the boards within the Bureau of Professional and Occupational Affairs (Bureau).

##### *Background and Purpose*

Under section 11.2(a) of the RN Law and section 17.5(a) of the LPN Law, the Board is required to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, these acts provide that the Board shall increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises approximately 80% of its revenue through biennial renewal fees. The remaining 20% of its revenue comes from other fees, fines and civil penalties. If revenue is inadequate to meet the minimum enforcement efforts required, section 11.2(b) of the RN Law and section 17.5(b) of the LPN Law require the Bureau, after consultation with the Board, to increase the fees such that adequate revenues are raised to meet the required enforcement effort.

The Board receives an annual report from the Department of State's Bureau of Finance and Operations (BFO) regarding the Board's income and expenses. During the annual presentation on April 17, 2019, the BFO reported that the Board would face an inability to meet its obligations if fees were not increased. Using the most recent fiscal information, the BFO advised the Board that for the biennial period that included FY 2016-2017 and FY 2017-2018, the Board's 2-year expenditures were \$30,894,360.20 and its revenue was \$23,746,193.93, for an operating deficit of \$7,148,166.30. The Board's ongoing operational deficits have depleted the Board's reserves and continue to leave the Board with a negative balance. The BFO estimates a projected negative balance of \$12,198,166.30 at the conclusion of FY 2018-2019. Without a fee increase, the BFO projects accumulating deficits increasing to approximately \$44,383,166.30 by the end of FY 2025-2026.

However, if the application and renewal fees are increased as proposed, the BFO projects biennial revenues of \$40,662,000, while projected expenditures for the next 5 biennial periods are projected at \$32,986,000 for FY 2019-2020 and FY 2020-2021, \$33,646,000 for FY 2021-2022 and FY 2022-2023, \$34,318,000 for FY 2023-2024 and 2024-2025 and \$35,004,000 for FY 2025-2026 and 2026-2027. These increases would permit the Board to recoup the accumulated deficits and result in a positive balance in the Board's account, estimated at approximately \$14,495,833.70 by the end of FY 2026-2027 (an amount that is less than 1 year's operating budget).

Accordingly, the Board is amending a total of 68 fees, consisting of 39 existing application fees, 6 existing biennial renewal fees, and 23 new and increased fees for education-related services as follows:

##### *Applications:*

- RN and LPN licensure by examination fees for graduates of Board-approved nursing education programs increase from \$35 to \$95.
- RN and LPN licensure by examination fees for graduates of out-of-State nursing education programs increase from \$100 to \$115.
- RN and LPN reexamination fees increase from \$30 to \$75.
- RN and LPN licensure by endorsement (without examination) fees increase from \$100 to \$120.
- RN and LPN licensure by endorsement with examination fees of \$145 added.
- RN and LPN Temporary Practice Permit (TPP) fees increase from \$35 to \$70.
- RN and LPN TPP extension fees increase from \$60 to \$85.
- RN and LPN review and challenge the licensure examination fees increase from \$170 to \$435.
- RN and LPN reactivations of licenses that have lapsed or been inactive for 5 or more years fees increase from \$50 to \$130.
- RN, LPN, LDN and CNS restoration of licenses following revocation or suspension fees increase from \$50 to \$60. A new fee of \$60 is added for CRNP and CRNP-PA restoration of licenses following revocation or suspension.
- RN, LPN, CRNP, LDN and CNS verifications of licensure/certification fees increase from \$15 to \$45.

- RN and LPN verifications with history fees increase from \$40 to \$50.
- LDN verifications with history fees increase from \$25 to \$50.
- CNS verifications with history fees increase from \$30 to \$50.
- New CRNP fee for verification of certification with history of \$50.
- CRNP certification for graduates from out-of-State nursing education programs fees increase from \$100 to \$140.
- CRNP initial prescriptive authority fees increase from \$50 to \$95.
- CRNP additional prescriptive authority fees increase from \$30 to \$45.
- LDN licensure fees increase from \$45 to \$95.
- CNS certification fees increase from \$100 to \$115.

*Biennial renewal:*

- RN biennial renewal fees increase from \$65 to \$122.
- LPN biennial renewal fees increase from \$60 to \$76.
- CRNP biennial renewal fees increase from \$75 to \$81.
- LDN biennial renewal fees increase from \$65 to \$71.
- CNS biennial renewal fees increase from \$50 to \$56.
- CRNP prescriptive authority biennial renewal fees increase from \$25 to \$41.

*Education-related services:*

- New RN, LPN and CRNP nursing education program survey visit fee of \$1,525.
- New RN, LPN and CRNP review of nursing education programs' annual compliance report fee of \$430.
- New RN, LPN and CRNP review of nursing education programs' curriculum revisions fee of \$585.
- New RN, LPN and CRNP review and approval of nursing education programs' stand-alone courses (RN and LPN reactivation programs, LPN IV therapy courses and CRNP advanced pharmacology courses) that require Board-approval fee of \$285.
- New LDN fee for approval for non-preapproved continuing education programs of \$115 per course-hour.
- New RN, CRNP, LDN and CNS fee for the renewal of non-preapproved continuing education programs of \$35.
- RN and LPN new nursing education program application fee increases from \$935 to \$2,195.
- CRNP new nursing education program application fee increases from \$735 to \$2,195.
- RN and CNS fee for approval for non-preapproved continuing education programs increases from \$75 to \$115 per course-hour.
- CRNP fee for approval for non-preapproved continuing education programs increases from \$100 to \$115.

*Summary and Responses to Comments*

Notice of proposed rulemaking was published at 49 Pa.B. 458 (February 2, 2019). Publication was followed by a 30-day public comment period during which the Board received comments from Alycia Seelig, BSN, RN; Michael J. Lawson, Esquire; Ashlee Homer, RN; and Amanda Baker, RN. The Independent Regulatory Review Commission (IRRC) also submitted comments. Neither the House Professional Licensure Committee (HPLC) nor the Senate

Consumer Protection and Professional Licensure Committee (SCP/PLC) submitted comments.

*Generally*

IRRC questioned the role the Professional Licensure Augmentation Account (PLAA) could have on reducing the Board's deficit. The PLAA is made up of revenue from 26 of the 29 licensing boards and commissions. However, the Board is the single largest contributor to the PLAA. The revenue that is in the PLAA is accounted for on a board-by-board basis by the BFO, because each board is required to support its own operations. Normally the PLAA has a balance of approximately \$30 million to \$35 million. Currently, in large part due to the Board's mounting deficits, the PLAA has a balance of about \$12 million. In recent years, the annual appropriation from the PLAA for all 26 boards has been between \$48 million to \$50 million.

The Board has been using money from the PLAA to continue operating throughout the period of its mounting deficit. While sections 301 and 302 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. §§ 1401-301 and 1401-302) authorize payment of processing and operational costs for the various regulatory boards and the Bureau from monies appropriated annually from the PLAA by the General Assembly, section 11.2(a) and (b) of the RN Law and section 17.5(a) and (b) of the LPN Law require the Board to fix and increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period. In light of the specific mandate in the RN and LPN Laws, licensees of the Board, and not licensees of the other 25 boards that contribute to the PLAA, should bear the obligation of paying the actual costs associated with the Board's operations. Additionally, PLAA funds should not be used to pay off the Board's deficit as there would not be sufficient funds available for use by other similarly situated boards while they pursue necessary fee increases. Should the Board continue to drain the PLAA of funds, it would quickly become insolvent affecting the operation of all 26 participating boards.

Alycia Seelig, BSN, RN, requested that the Board consider an alternate means to raise revenue other than increasing licensure fees. In response, the Board would note again that it is required to support its operations through fees, fines and civil penalties. Fines and civil penalties represent only about .5% of the Board's revenues, at an average of \$60,000 per year. Additionally, fines and civil penalties are not intended to be utilized to balance a board's budget. Instead, they are intended to be imposed as a deterrent to violating the law and regulations of the Board. Thus, the only option for the Board to increase revenues is licensure fees. In the past, the Board has chosen to increase biennial renewal fees rather than application fees thereby requiring existing licensees to bear the increased costs for new licensees and programs. Following a review of the costs of all services, the Board determined that licensees should not solely bear the increased costs and that applicants must also bear the applicable costs. The Board believes the proposed fees represent the least burdensome acceptable alternative. Even with the increased fees, the Board's fees are not out of sync with neighboring states.

Ashlee Homer, RN, and Amanda Baker, RN, submitted identical comments opposing the RN biennial renewal fee increase on the grounds that the RN biennial renewal fee is nearly double the current fee even though RNs are paid less than CRNPs and CNAs, and noting the difficulties

they experienced with their last renewal. The Board is statutorily required by section 11.2(a) of the RN Law and section 17.5(a) of the LPN Law to support its operations from the revenue it generates from fees. In determining the biennial renewal amount, based upon the size of the deficit, which has steadily increased, the Board considered the amount of disciplinary and administrative workload related to the licensure/certification classes. Because there are 170,277 more RNs than LPNs and LDNs combined, there are greater costs associated with the Board's disciplinary and administrative workload for RNs. Further, there are additional costs, beyond licensure as an RN, associated with issuing CRNP certifications, CRNP prescriptive authority authorizations (CRNP-PA) and CNS licenses. As a result, the Board determined that the additional costs should be borne by the licensure classes who receive those services. In addition to paying the RN biennial renewal fee, CRNPs with prescriptive authority pay additional biennial fees to renew their CRNP certifications and their prescriptive authority authorizations, for a combined biennial renewal fee of \$244. CRNPs without prescriptive authority pay a biennial fee to renew their RN licenses plus an additional biennial fee to renew their CRNP certifications, for a combined biennial renewal fee of \$203. CNSs pay a biennial fee to renew their RN licenses plus an additional biennial fee to renew their CNS licenses, for a combined biennial renewal fee of \$178. RNs who are neither CRNPs nor CNSs pay a biennial renewal fee of \$122.

The Board began renewing licenses and processing new licenses utilizing the Pennsylvania Licensing System (PALS) in October of 2017. As with the conversion to any new system, there were steep learning curves and processing time delays. However, with program enhancements coupled with a dedicated help desk for licensees, the platform has since been stabilized and licensees should notice a marked improvement when they next renew.

#### *Licensure by Endorsement with Examination*

IRRC requested that the Board explain what applicants fall within "licensure by endorsement with examination." Licensure by endorsement is the category of licensure for applicants who hold licenses in other states or jurisdictions based upon substantially equivalent education and examination. In many states and jurisdictions, the education and examination requirements are equivalent such that no additional education or examination is required. In some states and jurisdictions, however, they are not. For example, Florida grants licensure to applicants who have taken licensure examinations other than the NCLEX® which the Board and other states deem to be not equivalent to the NCLEX®. When the examination is not equivalent, the Board requires applicants to pass the NCLEX® before obtaining a Pennsylvania license. Thus, licensure by endorsement with examination is an alternate pathway that makes licensure possible for individuals who would not otherwise qualify for licensure by endorsement.

It is imperative for applicants who hold licensure in another state or jurisdiction without an equivalent examination to complete applications for licensure by endorsement with examination rather than simply apply for licensure by examination as they would for initial licensure so that the Board can confirm that there are no outstanding reciprocal issues in other states of licensure. Prior to beginning an application in PALS, applicants complete a survey that asks whether they are licensed in another state or jurisdiction and whether they passed the applicable NCLEX® examination.

#### *Licensed Practical Nurse Fees*

Michael Lawson, Esquire, requested that the Board not increase any of the LPN fees because they are the lowest paid of the nurse licensee classes. In formulating its proposal, the Board considered increasing the biennial renewal fees by the same percentage across the licensure classes, however, when the Board noted the fewer number of LPNs when compared with RNs and the fewer number of disciplinary cases based upon those fewer numbers, the Board determined that LPNs should pay a lower percentage of increase for biennial renewal than RNs. That lower percentage has been continued in this final-form rule-making. As for the application fees, because they are based upon the actual cost of the service no reduction was made to the LPN application fees.

Michael Lawson, Esquire, also questioned whether the \$1.7 million reduction in revenue between FY 2015-2016 and FY 2016-2017 is accurate. The BFO confirmed the accuracy of this revenue reduction. Approximately 90% or more of all revenue comes from renewals and applications. When the licensee counts decline, the result directly affects the revenue. In FY 2015-2016, the revenue was \$12,065,709.63 based upon a licensee count of 302,799. In FY 2016-2017, the revenue decreased by \$1,755,001.93 to \$10,310,707.70 because the licensee count decreased to 296,018, a difference of 6,781 licensees. The licensee counts have continued to rise since that time.

#### *Nursing Education Program Fees*

Alycia Seelig, BSN, RN, noted that the increased fees for nursing education programs will adversely impact Career and Technology Center nursing education programs as they are funded by the school districts in which they reside. Like the application fees for individual applicants, the nursing education program fees are based upon an average of the actual costs of the services being provided and despite the lengthy review associated with program approval delineated as follows, the fees have not increased in over 13 years.

Prior to establishment of a practical nursing education program, for example, an application, fee and proposal are submitted to the Board. The Board's Nursing Education Advisor evaluates if the proposal contains statistical data to support the need for a program and supporting evidence that the standards for a nursing education program are met. These program standards include organizational requirements, faculty requirements and qualifications, curriculum requirements and evaluation methodologies, facility and resource requirements, student policies and services and record management. If incomplete information or clarification of information is required a detailed discrepancy letter, prepared in consultation with the Executive Secretary and Board Counsel, summarizing the discrepancies is mailed to the author of the proposal. Almost all of the proposals require at least one revision and result in multiple phone calls, e-mails and correspondence.

When the application is evaluated as complete by the Board's Nursing Education Advisor, a proposal summary is prepared with input from the Executive Secretary and Counsel, and the proposal and summary are placed on the Board's agenda by the Board Administrator who also schedules an appointment with the proposal author to make a presentation about the proposal to the Board. Following approval by the Board, an initial approval letter is sent to the program and the Board's Nursing Education Advisor schedules an initial site visit to perform a facility and resource review. This review involves



travel to the facility and depending on the location of the program includes lodging and meals. Following the visit, a summary is prepared and a letter is sent to the program allowing it to recruit and admit students. The program is also scheduled for orientation, password access and registration in the Board's electronic database.

When the program graduates its first class of graduates, the Board's Nursing Education Advisor conducts a second site visit and evaluates the program to determine if it meets Board standards. A letter summarizing the visit is sent to the program and as appropriate, the program's approval status is changed from initial to full or provisional.

The existing fee structure is inadequate to cover the costs associated with these activities. Consequently, the fees must be raised, and the Board believes the programs, and not the entire regulated community of nurses and dietitian-nutritionists, should bear these increases.

#### *Fiscal Impact and Paperwork Requirements*

This final-form rulemaking will increase the application and biennial renewal fees for licensees of the Board. As of April 30, 2019, there are approximately 226,448 RNs, 51,931 LPNs, 13,813 CRNPs, 4,240 LDNs, 250 CNSs and 14,629 CRNP prescriptive authority authorizations, for a total of approximately 311,311 licensees/certificate holders who will be required to pay more to renew their licenses/certifications/authorizations when they expire. There are also 225 Board-approved nursing education programs who will be required to pay more for review of their programs. Additionally, there are approximately 38,895 applications filed with the Board annually, including 10,250 applications for licensure by examination, 5,150 applications for licensure by endorsement, 1,400 reexamination applications, 3,740 initial and TPP/Graduate Practice Permit extension applications, 450 reactivation applications, 38 restoration applications, 426 applications for verifications of licensure/certifications, 12,135 applications for verifications of licensure/certifications with histories, 300 LDN licensure applications, 1,350 CRNP certification applications, 3,300 prescriptive authority authorizations, 30 CNS certification applications, and 326 applications involving nursing education programs. These fees may be paid by applicants/licensees while others may be paid by their employers should their employers choose to pay these fees. This final-form rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

This final-form rulemaking will require the Board to alter/create applications and biennial forms to reflect the new fees; however, the amendments will not create additional paperwork for the regulated community or for the private sector.

#### *Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Additionally, the BFO provides the Board with an annual report detailing the Board's financial condition. In this way, the Board continuously monitors the adequacy of its fee schedule. Therefore, no sunset date has been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 17, 2019, and February 15, 2019, the Board submitted notice of proposed rulemaking, published at 49 Pa.B. 558, to IRRC and the Chairpersons of the HPLC and SCP/PLC with a copy to IRRC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Board has considered all comments from IRRC and the public. The HPLC and the SCP/PLC did not submit comments.

Under section 5.1(g)(3) and (j.2) of the Regulatory Review Act (71 P.S. § 745.5a(g)(3) and (j.2)), on June 19, 2019, this final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 20, 2019, and approved this final-form rulemaking.

#### *Additional Information*

Additional information may be obtained by contacting Cynthia Miller, Board Administrator, State Board of Nursing, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-NURSE@pa.gov.

#### *Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) No amendments have been made to this final-form rulemaking.

(4) These amendments to the regulations of the Board are necessary and appropriate for the regulation of the practice of nursing in this Commonwealth.

#### *Order*

The Board therefore orders that:

(A) The regulations of the Board at 49 Pa. Code Chapter 21 are amended by amending §§ 21.5, 21.147, 21.253, 21.705 and 21.805 to read as set forth in Annex A.

(B) The Board shall submit a copy of this final-form regulation to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(C) The Board shall submit this final-form regulation to IRRC, the HPLC and the SCP/PLC as required by law.

(D) The Board shall certify this final-form regulation and shall deposit it with the Legislative Reference Bureau as required by law.

(E) The regulations shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

ANN M. COUGHLIN, MBA, MSN, RN,  
Chairperson  
State Board of Nursing

K. KALONJI JOHNSON,  
Acting Commissioner

Bureau of Professional and Occupational Affairs

(Editor's Note: See 49 Pa.B. 3546 (July 6, 2019) for IRRC's approval order.)

**Fiscal Note:** 16A-5142. No fiscal impact; (8) recommends adoption.

Annex A  
**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**  
**PART I. DEPARTMENT OF STATE**  
**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**  
**CHAPTER 21. STATE BOARD OF NURSING**  
**Subchapter A. REGISTERED NURSES**  
**GENERAL PROVISIONS**

**§ 21.5. Fees.**

(a) The following application fees are charged by the Board for services provided to licensees and applicants:

Licensure by examination—Board-approved nursing education program graduates .....	\$95
Reexamination .....	\$75
Licensure by endorsement .....	\$120
Licensure by endorsement with examination .....	\$145
Temporary practice permit .....	\$70
Extension of temporary practice permit .....	\$85
Fee for review and challenge of RN exam .....	\$435
Licensure by examination—Graduates of out-of-State nursing education programs .....	\$115
Verification of licensure .....	\$45
Reactivation of inactive or lapsed license (5 years or longer) .....	\$130
Restoration after suspension or revocation .....	\$60
Certification of scores .....	\$25
Verification of licensure with history .....	\$50

(b) The following renewal fees are charged by the Board to support its operations:

Biennial renewal of license .....	\$122
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(c) The following fees are charged by the Board for services provided to nursing education programs:

Application for approval of new nursing education program .....	\$2,195
Review of curriculum revisions fee .....	\$585
Review of annual compliance report fee .....	\$430
New nursing education program survey visit fee .....	\$1,525

(d) The following fees related to continuing education are charged by the Board:

Approval of each hour of registered nurse continuing education activity by sources not listed in § 21.134(a) (relating to continuing education sources) .....	\$115
Renewal of approval of registered nurse continuing education activity by sources not listed in § 21.134(a) .....	\$35

(e) The following fee is charged for evaluations of programs requiring Board approval under § 21.30a(a)(2) (relating to continued competency) .....	\$285
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(f) In addition to the fees prescribed in subsection (a), which are payable directly to the Board, a candidate for the registered nurse licensing examination shall also pay a fee to the National Council of the State Board of Nursing ([www.ncsbn.org](http://www.ncsbn.org)) to cover costs associated with the preparation and administration of the registered nurse licensing examination.

**Subchapter B. PRACTICAL NURSES**  
**GENERAL PROVISIONS**

**§ 21.147. Fees.**

(a) The following application fees are charged by the Board for services to licensees and applicants:

Licensure by examination—Board-approved nursing education program graduates .....	\$95
Reexamination .....	\$75
Licensure by endorsement .....	\$120
Licensure by endorsement with examination .....	\$145
Temporary practice permit .....	\$70
Extension of temporary practice permit .....	\$85
Fee for review and challenge of PN exam .....	\$435
Licensure by examination—Graduates of out-of-State nursing education programs .....	\$115

Verification of licensure .....	\$45
Reactivation of inactive or lapsed license (5 years or longer) .....	\$130
Restoration after suspension or revocation.....	\$60
Certification of scores .....	\$25
Verification of licensure with history .....	\$50
(b) The following renewal fees are charged by the Board to support its operations:	
Biennial renewal of license .....	\$76
(c) The following fees are charged by the Board for services to nursing education programs:	
Application for approval of new nursing education program .....	\$2,195
Review of curriculum revisions fee .....	\$585
Review of annual compliance report fee .....	\$430
New nursing education program survey visit fee .....	\$1,525
(d) The following fee is charged for evaluations of curricula and programs requiring Board approval under §§ 21.145b(b) and 21.156a(2) (relating to IV therapy curriculum requirements; and continued competency)..	
	\$285
(e) In addition to the fees prescribed in subsection (a), which are payable directly to the Board, a candidate for the practical nurse licensing examination shall also pay a fee to the National Council of the State Boards of Nursing (www.ncsbn.org) to cover costs associated with the preparation and administration of the practical nurse licensing examination.	

**Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS**

**GENERAL PROVISIONS**

**§ 21.253. Fees.**

(a) The following application fees are charged by the Board for services to licensees and applicants:	
CRNP Certification—Board-approved nursing education program graduates .....	\$100
CRNP Certification—graduates of out-of-State nursing education programs .....	\$140
Verification of certification .....	\$45
Verification of certification with history .....	\$50
Application for prescriptive authority .....	\$95
Each additional application for prescriptive authority .....	\$45
Restoration of CRNP certification after suspension or revocation .....	\$60
Restoration of CRNP prescriptive authority after suspension or revocation .....	\$60
(b) The following renewal fees are charged by the Board to support its operations:	
Biennial renewal of CRNP certification .....	\$81
Biennial renewal of prescriptive authority approval .....	\$41
(c) The following fees for approval and review of CRNP education programs are charged by the Board:	
Application for approval of new nursing education program .....	\$2,195
Review of curriculum revisions fee .....	\$585
Review of annual compliance report fee .....	\$430
New nursing education program survey visit fee .....	\$1,525
(d) The following fee is charged for course evaluations requiring Board approval under § 21.283(b)(1)(i) (relating to authority and qualifications for prescribing, dispensing and ordering drugs).....	
	\$285
(e) The following fees related to continuing education are charged by the Board:	
Approval of each hour of CRNP continuing education activity by sources not listed in § 21.334(a) (relating to sources of continuing education) .....	\$115
Renewal of approval of CRNP continuing education activity by sources not listed in § 21.334(a) .....	\$35

**Subchapter G. DIETITIAN-NUTRITIONISTS**

**GENERAL PROVISIONS**

**§ 21.705. Fees.**

(a) The following application fees are charged by the Board for services to licensees and applicants:	
Application for licensure .....	\$95
Reactivation of inactive or lapsed license (after 5 years or longer) .....	\$50
Verification of licensure .....	\$45

Verification of licensure with history ..... \$50

Restoration after suspension or revocation ..... \$60

Approval of each hour of LDN continuing education activity by sources not listed in § 21.724(b) (relating to continuing education) ..... \$115

Renewal of approval of LDN continuing education activity by sources not listed in § 21.724(b) ..... \$35

(b) The following renewal fees are charged by the Board to support its operations:

Biennial renewal of license ..... \$71

(c) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate shall also pay an additional examination fee to the Commission on Dietetic Registration or to the Board for Certification of Nutrition Specialists for the examinations set forth in § 21.722(b) (relating to education, examination and re-examination of applicants).

**Subchapter H. CLINICAL NURSE SPECIALISTS**  
**GENERAL PROVISIONS**

**§ 21.805. Fees.**

(a) The following application fees are charged by the Board:

Certification as a CNS ..... \$115

Biennial renewal fee ..... \$56

Restoration of certificate after suspension or revocation ..... \$60

Reactivation of inactive or lapsed certificate (5 years or longer) ..... \$50

Verification of certification ..... \$45

Verification of certification with history ..... \$50

Approval of each hour of CNS continuing education activity by sources not listed in § 21.825(a) (relating to sources of continuing education) ..... \$115

Renewal of approval of CNS continuing education activity by sources not listed in § 21.825(a) ..... \$35

(b) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for National certification will also pay an additional fee to the certifying organization. A candidate may contact the certifying organization for more information regarding the National certification examination and examination fee.

[Pa.B. Doc. No. 19-1137. Filed for public inspection July 26, 2019, 9:00 a.m.]

**Title 7—AGRICULTURE**  
**DEPARTMENT OF AGRICULTURE**  
**[ 7 PA. CODE CH. 59a ]**  
**Milk Sanitation**

The Department of Agriculture (Department) amends § 59a.402 (relating to raw milk; prohibitions) to read as set forth in Annex A.

*Effective Date*

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

*Authority*

This final-form rulemaking is authorized under the act of July 2, 1935 (P.L. 589, No. 210) (31 P.S. §§ 645—660g), known as the Milk Sanitation Law (act), which establishes the powers and duties of the Department with respect to milk sanitation. Section 19 of the act (31 P.S. § 660c) authorizes the Department to adopt the regulations necessary to administer the act. This final-form rulemaking is also authorized under 3 Pa.C.S. §§ 5721—5737 (relating to Food Safety Act), which: 1) authorize the Department to promulgate regulations and food standards necessary for enforcement of 3 Pa.C.S. §§ 5721—5737; 2) defines certain “Federal acts” including the Federal Food, Drug, and Cosmetic Act (21 U.S.C.A. §§ 301—399i); and 3) encourage consistency among the Department’s food safety regulations and the defined

Federal acts and their attendant regulations. See 3 Pa.C.S. §§ 5722, 5733(a) and 5736(a) (relating to definitions; rules and regulations; and construction of subchapter).

*Background and Summary*

The United States Food and Drug Administration’s (FDA) regulations in 21 CFR Part 133, Subpart B (relating to requirements for specific standardized cheese and related products) were promulgated under the authority of the Federal Food, Drug, and Cosmetic Act, and establish standardized definitions and requirements for 72 different kinds of cheese. These same Federal regulations allow for 57 of these standardized cheeses to be produced from raw (unpasteurized) milk.

Section 59a.402 addresses the types of cheese that can be produced from raw milk and is more restrictive than 21 CFR Part 133, Subpart B. The Department is satisfied that the FDA’s raw milk cheese standards are reasonable and represent the current state of food science with respect to the safe production of raw milk cheeses. There is no practical reason for the Department’s raw milk cheese standards to be any more stringent than the FDA’s raw milk cheese standards. This final-form rulemaking will also further the objective of 3 Pa.C.S. §§ 5721—5737 to make the Department’s food regulations consistent with the FDA’s food safety regulations.

This final-form rulemaking will revise § 59a.402 to allow the holder of a raw milk permit to obtain an additional permit from the Department, authorizing the manufacture and sale of cheese from raw milk if: 1) the



type of cheese that is being produced is a standardized cheese under the FDA's standards; and 2) the FDA's standards allow that type of standardized cheese to be produced from raw milk. This revision will bring this Commonwealth into alignment with FDA standards and allow the manufacture and sale of cheese from raw milk to the full extent allowed under the FDA standards. It will also allow manufacturers of raw milk cheese to market a greater variety of raw milk cheeses and provide consumers a wider selection of these cheeses.

#### *Response to Comments*

Notice of proposed rulemaking was published at 48 Pa.B. 4761 (August 4, 2018), with a 30-day public comment period.

The Department received a total of 10 comments from the public. The commentators included the Pennsylvania Cheese Guild, the Pennsylvania Farm Bureau, Oldways Cheese Coalition, the Real Food Consumer Coalition and six individuals. Each of these commentators offered support for the proposed rulemaking as written, without recommending any revisions. Commentators noted the benefits of aligning this Commonwealth's raw milk cheese standards with existing Federal standards of identity for cheese, and believe the rulemaking will bring economic benefits to the raw milk cheese industry and provide consumers a wider variety of raw milk cheeses in the marketplace.

The Department appreciates these comments and agrees with the sentiments expressed by the commentators.

The Independent Regulatory Review Commission (IRRC) had no objections, comments or recommendations to offer on the proposed rulemaking.

#### *Fiscal Impact*

##### *Commonwealth*

This final-form rulemaking will have no fiscal impact on the Commonwealth.

##### *Political Subdivisions*

This final-form rulemaking will have no fiscal impact on political subdivisions.

##### *Private Sector*

This final-form rulemaking will have some fiscal impact on the private sector. Businesses that manufacture raw milk cheese will benefit from being able to market a greater variety of raw milk cheeses. There are approximately 90 of these manufacturers.

##### *General Public*

This final-form rulemaking will have no appreciable impact on the general public, other than to make a greater variety of Pennsylvania-made raw milk cheeses available to consumers.

##### *Paperwork Requirements*

This final-form rulemaking will not add to paperwork requirements for any entity or the Department. The persons who are currently making raw milk cheese under authority of Department-issued permits are the same group that will be producing the expanded variety of standardized raw milk cheeses when the final-form regulation is promulgated. New permits or paperwork will not be necessary.

##### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 25, 2018, the Department sub-

mitted a copy of proposed rulemaking, published at 48 Pa.B. 4761, to IRRC and the Chairpersons of the House and Senate Agriculture and Rural Affairs Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department is required to submit to IRRC and the referenced Legislative Standing Committees copies of comments received during the public comment period, as well as other documents when requested. The Department provided the required copies of comments it received. No other documents were requested by the Legislative Standing Committees.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on June 19, 2019, this final-form rulemaking was deemed approved by the House and Senate Agriculture and Rural Affairs Committees. IRRC did not comment on, make recommendations regarding or object to any portion of the proposed rulemaking, and the Department did not make any changes to the proposed rulemaking. Thus, under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on June 20, 2019, and this final-form rulemaking was deemed approved under section 5(g) of the Regulatory Review Act.

#### *Additional Information*

Additional information may be obtained from Lydia Johnson, Ph.D., Director, Bureau of Food Safety and Laboratory Services, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4315.

#### *Findings*

The Department finds that:

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

(2) A public comment period was provided as required by law.

(3) The amendments to the regulations of the Department are necessary and appropriate for the administration of the authorizing statute.

#### *Order*

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

(a) The regulations of the Department, 7 Pa. Code Chapter 59a are amended by amending § 59a.402 to read as set forth in Annex A.

(b) The Department shall submit a copy of this final-form regulation to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(c) The Department shall submit this final-form regulation to IRRC and the committees as required by law.

(d) The Department shall certify this final-form regulation and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-form regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

RUSSELL C. REDDING,  
Secretary

(*Editor's Note:* See 49 Pa.B. 3546 (July 6, 2019) for IRRC's approval order.)



**Fiscal Note:** Fiscal Note 2-191 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART III. BUREAU OF FOOD SAFETY AND LABORATORY SERVICES**

**Subpart B. LIQUID FOODS**

**CHAPTER 59a. MILK SANITATION**

**Subchapter F. RAW MILK FOR HUMAN CONSUMPTION**

**§ 59a.402. Raw milk; prohibitions.**

(a) *Sale of raw milk without permit.* A person may not sell raw milk for human consumption without having a current raw milk permit issued by the Department. The term “sell” includes the selling, exchanging, delivering or having in possession, care, control or custody with intent to sell, exchange, or deliver or to offer or to expose for sale.

(b) *Actions authorized under a raw milk permit.* A raw milk permit authorizes the permitholder to lawfully produce and sell (within this Commonwealth) raw whole milk for human consumption. It also authorizes the permitholder to obtain an additional permit, issued by the Department under authority of 21 CFR Part 133 (relating to cheese and related cheese products), authorizing the sale of cheese manufactured from raw milk if all of the following apply:

(1) The cheese is a standardized cheese identified in 21 CFR Part 133, Subpart B (relating to requirements for specific standardized cheese and related products).

(2) The standards for that cheese allow for it to be manufactured from raw milk.

(c) *Compliance with testing and documentation requirements.* A person may not sell raw milk for human consumption without being in compliance with the testing and documentation requirements of this section.

[Pa.B. Doc. No. 19-1138. Filed for public inspection July 26, 2019, 9:00 a.m.]