

PROPOSED RULEMAKING

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 49]

Certification of Professional Personnel

The State Board of Education (Board) proposes to amend Chapter 49 (relating to certification of professional personnel) to read as set forth in Annex A. The Board is acting under the authority of sections 1109, 1141, 2603-B and 2604-B of the Public School Code of 1949 (act) (24 P.S. §§ 11-1109, 11-1141, 26-2603-B and 26-2604-B).

Purpose

Chapter 49 sets forth requirements for educator preparation, certification, induction and ongoing professional education.

Background

In July 2018, the Department of Education (Department) invited interested stakeholders to participate in dialog on issues surrounding educator preparation and certification. Attendees at forums held in Philadelphia, Harrisburg and Pittsburgh provided input on potential changes to State policy that could strengthen preparation and certification and strategies to advance the Department's other priorities for the educator workforce, including diversifying Pennsylvania's educator workforce and ensuring all students have equitable access to effective teachers. Stakeholder feedback from these convenings was considered in tandem with a review of research on the impact and effectiveness of policy changes suggested by stakeholders in a report prepared for the Department by the Learning Policy Institute (LPI).

Guided then by input from diverse stakeholders and a review of related academic literature, the Secretary of Education (Secretary) presented a set of recommendations to the Board for updating Chapter 49 in November 2018. The Board accepted the Secretary's recommendations on its agenda for consideration and initiated a major review of Chapter 49 that is to occur at 10-year intervals per § 49.51(b) (relating to review of certification) with the Secretary's recommendations serving as a starting point for that review.

The Board, through its Teacher and School Leader Effectiveness Committee (Committee), held four public hearings on the Secretary's recommended updates to Chapter 49 and invited additional testimony from stakeholders on the chapter broadly. In advance of the hearings, draft proposed amendments to Chapter 49 prepared by the Secretary were posted on the Board's web site for public review. Hearings were held at the Philadelphia School District administration building on March 4, 2019, at the Department of Education in Harrisburg on March 14, 2019, at Lock Haven University on March 28, 2019, and at the Allegheny Intermediate Unit on April 23, 2019. In addition to providing an opportunity to testify before the Committee, the Board invited individuals to submit written testimony on draft proposed revisions to Chapter 49.

Individuals affiliated with small businesses were welcome to participate in the public hearings convened by the Committee and to submit written testimony to the Board. In addition, the Board invited comments on the impact of draft proposed amendments on small businesses

directly from the Pennsylvania chapter of the National Federation of Independent Business prior to adopting this proposed rulemaking.

Comments received during this process were taken into consideration by the Board in making further revisions to the Secretary's recommendations. Draft proposed amendments to Chapter 49 were reviewed and approved by the Committee and by the Council of Higher Education before being adopted by the Board as a proposed rulemaking at its public meeting on July 8, 2020.

Need for the rule

This proposed rulemaking has two aims—conforming the chapter to changes in State statute and enhancing educator preparedness by establishing new training requirements related to culturally responsive and sustaining education (CR-SE), structured literacy and professional ethics.

The majority of proposed revisions reflect technical amendments to align certain provisions of Chapter 49 with statutory changes to the Public School Code, clarify ambiguous language and update language for relevancy.

Substantive changes related to educator training are needed to address concerns surrounding Pennsylvania's supply of effective educators. Section 49.51(a) directs the Department to report annually to the Board on the status of certification in the Commonwealth. Data presented in the Department's July 2020 annual human capital report shows that enrollment in traditional educator preparation programs in this Commonwealth has decreased by 67% since 2010, with a slight increase between 2017 and 2018.

This downward trend is consistent with declines in educator preparation program enrollments Nationally that fell by 35% between 2009 and 2014. Data on National educator preparation program enrollments was presented by LPI in a presentation titled "National Trends in Teacher Preparation and Certification" that was delivered at a public meeting of the Board in March 2019. The steep decline in the number of individuals preparing for a career in education is a contributing factor to the challenges districts face in hiring fully prepared educators. Issues surrounding educator supply further are compounded by persistent teacher shortages in certain geographic areas and subject areas.

The decline in supply and resulting shortages disproportionately impact inequities in access to qualified teachers for low-income students and students of color. A report prepared by LPI titled "Examining Educator Certification in Pennsylvania: Research and Recommendations for Chapter 49" notes that the eight districts that top the State's list for teacher shortages based on unfilled vacancies are all Title I districts. Title I is a Federal program that provides financial assistance to local education agencies and schools with high numbers or high percentages of children from low-income families. Collectively, in 2016-2017, these districts served over 13% of the State's overall student population and over 30% of student of color in this Commonwealth. According to the LPI report, six of the eight districts with the greatest teacher shortages serve primarily students of color.

To address these gaps, the State has become increasingly reliant on long-term substitutes serving on emergency permits to staff classrooms as evidenced by a 100% increase in the number of emergency permits issued to districts in Pennsylvania between 2014-2015 and 2016-

2017. Data on the increasing reliance on emergency permits was presented to the Board in the Department's 2018 annual certification report and further reported in the aforementioned report prepared by LPI. These circumstances are concerning because research demonstrates that teachers with little or no preparation often lead classrooms with lower student outcomes and experience a higher attrition rate from the field. Nationally, 66% of teacher turnover in 2015-2016 was due to pre-retirement attrition, as reported by LPI in its March 2019 presentation at a public meeting of the Board.

While significant turnover occurs before educators reach retirement age, the Board gauged Pennsylvania's educator workforce needs by reviewing data on the supply gap as measured by potential retirements. In 2018-2019, 12% of teachers were close to or at the age of retirement (defined as 55 years of age or older) and, in that same year, 5% of teachers were close to retirement based on years of services (defined as 30 or more years of service) as evidenced by data in the Department's July 2020 annual human capital report.

Proposed amendments are intended to reinforce the professional integrity expected of both new and experienced educators. The Professional Standards and Practices Commission, the State body charged with adjudicating educator misconduct, has seen its caseload more than triple over the past 5 years according to data from the Commission. The Commission disciplines nearly 300 educators annually, and the Department's Office of Chief Counsel currently has more than 2,000 educator misconduct complaints pending. Protecting students from educator misconduct is of the utmost imperative. Through these proposed amendments, the Board seeks to ensure that educators in this Commonwealth are prepared not just in pedagogy and content knowledge, but that they possess a clear understanding of the ethical practice that is expected of them.

Collectively, these challenging circumstances require attention to ensure that all students in this Commonwealth are served by teachers fully prepared to meet their needs. To address these challenges, the Board is proposing new educator training requirements that would be integrated throughout three points in an educator's career to provide a continuum of professional learning.

First, this proposed rulemaking would add requirements for instruction for preservice educators, which would be delivered as part of undergraduate or alternative post-baccalaureate programs for individuals who are working toward earning a teaching certificate. Under this proposed rulemaking, individuals studying to become teachers would need to complete instruction in professional ethics, structured literacy, and CR-SE. CR-SE is inclusive of mental wellness, trauma-informed instruction, cultural awareness, and technological and virtual engagement.

Second, this proposed rulemaking would add requirements for training as newly-employed teachers enter the profession. When teachers enter the classroom for the first time, they are required to complete an induction program that includes a variety of professional support services, often delivered under the guidance of a mentor teacher, to facilitate entry into the education profession. Induction programs typically span an educator's first year in the classroom, and, under this proposed rulemaking, would make supports available for at least the first 2 years of an educator's career. This proposed rulemaking would require induction programs for newly-employed

educators to include training in CR-SE, as described previously, and in professional ethics.

Finally, this proposed rulemaking would add requirements for training as part of continuing professional development for current educators. The act of November 23, 1999 (P.L. 529, No. 48) amended the act to require educators in this Commonwealth to complete continuing education requirements every 5 years to maintain an active teaching certificate. Educators must earn either six credits of collegiate study, six credits of Department-approved continuing professional education courses, or 180 hours of continuing professional education programs, activities or learning experiences through a Department-approved provider to maintain active certification status.

Further, both section 1205.1 of the act (24 P.S. §§ 12-1205.1) and § 49.17 (relating to continuing professional education) require school entities to develop continuing professional education plans every 3 years. The existing requirements of Chapter 49 further require that professional education plans must address training in meeting the needs of diverse learners (defined as students with limited English language proficiency or students with disabilities), improving language and literacy acquisition, and closing the achievement gap among students. This proposed rulemaking would require that continuing professional education for current educators include training in CR-SE, structured literacy and professional ethics.

The proposed substantive amendments are intended to support efforts to improve educator recruitment, increase the number of classrooms staffed by fully prepared teachers, increase retention in the profession, and improve student outcomes by strengthening the preparation of new educators, creating conditions to provide more support for educators as they enter the classroom and by improving the skill sets of current educators in working with an increasingly diverse student population.

Provisions of this Proposed Rulemaking

The majority of revisions in this proposed rulemaking would make technical amendments to either align provisions of Chapter 49 with statutory changes, clarify language or update language for relevancy. The balance of proposed amendments would establish new competencies for educators to be incorporated both in preservice instruction for individuals preparing to enter the field and in training delivered through induction programs and professional development for current educators. This proposed rulemaking would strengthen supports for beginning educators by extending the length of induction programs. Finally, this proposed rulemaking would create additional certification pathways for school psychologists.

§ 49.1. Definitions

Proposed amendments to § 49.1 (relating to definitions) would add a new definition for "alternative program provider." The act of June 30, 2011 (P.L. 112, No. 24) amended the act to create new powers and duties for the Secretary through the addition of section 1207.1 to the act (24 P.S. § 12-1207). These powers permit the Secretary to evaluate and approve postbaccalaureate certification programs and to evaluate and approve qualified providers of postbaccalaureate certification programs, which may include providers other than institutions of higher education. The definition of "alternative program provider" is proposed to be added as a technical revision to align the regulation with the authorization in statute permitting the Secretary to approve these providers and to acknowledge the current landscape of educator prepa-

ration providers that is inclusive of approved alternative programs. References to alternative program providers are incorporated throughout the chapter as appropriate to recognize the presence of alternative program providers.

The term “approved teacher certification program” is proposed to be amended for relevance to refer to “approved educator preparation program.” This proposed revision to terminology recognizes that preservice education providers offer a breadth of programming that extends beyond preparing individuals to serve only as classroom teachers. The definition is being amended to reflect the presence of alternative program providers, as described previously in the proposed new definition.

A new definition for “baccalaureate degree” is proposed to be added as a technical amendment to provide context for individuals qualified to pursue certification through an alternative program provider as defined in statute. Requirements established in section 1207.1 of the act set forth that these programs may be offered at the postbaccalaureate level.

The existing definition of “professional certified personnel” is being revised to refer to “certified personnel” to clarify professional as certified and to reflect the application of the term as applied in current inter-State reciprocity agreements.

A new definition of “completer” is proposed to be added to differentiate between a candidate who has met all requirements in a certification program and candidates who have received a certificate, as some completers do not become certified.

A definition for “culturally relevant and sustaining education” is proposed to be added to describe new competencies for educators in which instruction and training would be required under this proposed rulemaking. The definition of CR-SE includes the following specific competencies: mental wellness, trauma-informed approaches to instruction, technological and virtual engagement, and cultural awareness.

The existing definition for the “Professional Educator Discipline Act” is proposed to be amended to the “Educator Discipline Act” to appropriately refer to the Act as it was renamed under the act of December 18, 2013 (P.L. 1205, No. 120). References to the “Professional Educator Discipline Act” throughout the entirety of the chapter are updated accordingly to align with the title as changed in statute.

A new definition for “historically underrepresented groups” is proposed to be added to provide context for reporting under § 49.14(4)(v) (relating to approval of institutions).

A new definition for “professional ethics” is proposed to be added to provide context for instruction and training for educators in ethical practice and professional integrity that would be required under this proposed rulemaking.

The term “school entity” is being amended to replace the existing reference to “area vocational-technical schools” with “area career and technical schools.” This proposed amendment aligns language included in the definition with terminology as it was updated throughout the act under revisions enacted by the act of October 30, 2019 (P.L. 460, No. 76).

A new definition for “structured literacy” is proposed to be added to provide context for instruction and training

for educators in these competencies that would be required under the proposed rulemaking.

A new definition of “subject area” is proposed to be added to distinguish content instruction from grade spans.

§ 49.12. Eligibility

References to providing a physician’s certification in paragraph (2) are deleted as these certificates are no longer required in statute.

Paragraph (4) is amended for clarification.

§ 49.13. Policies

Proposed amendments replacing the term “teacher education” with “educator preparation” are reflected in subsection (b)(1) and (4) to update language for relevancy and to reflect proposed updates to the definition of “approved educator certification program” in § 49.1. Parallel amendments to this terminology are reflected throughout the balance of the chapter for greater accuracy and relevancy in identifying the breadth of program offerings by preservice education providers.

Section 49.13(4)(ii) requires instruction in professional ethics to be integrated throughout educator preparation programs and directs the Department to determine whether this requirement is being satisfied by educator preparation providers. This instruction must align with standards for competencies in professional ethics that would be developed by the Department as set forth elsewhere in this proposed rulemaking (§ 49.14(4)(i)).

Subsection (c) is proposed to be amended for clarity and to reference the proposed new definition of “alternative program provider” to recognize the presence of alternative providers in the landscape of educator preparation programs.

Subsection (f) is proposed to be added to the regulation to address procedures for evaluating applicants for certification who seek certification after their educator preparation program has closed or been discontinued. This addition is intended to ensure there are no gaps in the evaluation of applicants.

§ 49.14. Approval of institutions and alternative program providers

The title of this section is proposed to be amended to reference the proposed new definition of “alternative program provider” to recognize the inclusion of these providers in section 1207.1 of the act. References to “alternative program provider” are proposed to be added throughout the section, and throughout the balance of the chapter as appropriate, to reflect the Secretary’s responsibility for approving these providers as established under the act of June 30, 2011 (P.L. 112, No. 24).

Proposed amendments to paragraph (4)(i) require educator preparation program providers to deliver instruction that includes competencies, coursework, and field experiences in professional ethics, structured literacy, and CR-SE, inclusive of mental wellness, trauma-informed approaches to instruction, cultural relevancy, and virtual instruction. The section further would require the Department of Education to identify the competencies and to develop standards for them.

Paragraph (4)(iv) proposes to grant more discretion over clinical experiences to the Secretary in consultation with the Board.

Paragraph (4)(v) proposes to establish annual reporting requirements for educator preparation programs on stu-

dents admitted, retained and graduated, including students from historically underrepresented groups.

Proposed amendments to paragraph (4)(vii) better clarify the institutional approval process.

Paragraph (4)(viii) proposes to grant more discretion over clinical experiences to the Secretary in consultation with the Board.

Paragraph (4)(x) proposes to clarify the Board's role in consulting with the Secretary to approve achievement targets.

Amendments to paragraph (6) are proposed to acknowledge the need of educator preparation programs to comply with federal requirements.

§ 49.15. *Approval of experimental programs*

As noted in the previous section, the proposed new definition for "alternative program provider" is being added to relevant provisions throughout the chapter to recognize their inclusion in the landscape of educator preparation programs.

Section 49.15 (relating to approval of experimental programs) proposes to add a cross-reference to § 49.13 (relating to policies) for clarification to highlight needs for experimental programs to meet requirements.

§ 49.16. *Approval of induction plans*

The Board proposes to amend subsection (a) to strengthen the supports available to beginning educators by extending the length of induction programs to 2 years.

Proposed amendments to subsection (c) direct school entities to include professional ethics, cognitive competencies and CR-SE in induction program plans for new educators.

§ 49.17. *Continuing professional education*

Proposed amendments to subsection (a)(6) require school entities to provide professional development in CR-SE, structured literacy and professional ethics.

The proposed amendments direct school entities to address delivery of training in CR-SE for current educators as part of existing continuing professional education plans. Inclusion of trauma-informed approaches to instruction as a component of professional development for current educators, which would be required by the inclusion of CR-SE in Subsection (a)(6), is consistent with the recent additions of sections 1205.1 and 1205.7 to the act that require school entities' professional education plans to include trauma-informed approaches.

In addition to providing a foundation in professional ethics for individuals preparing to enter the profession as established earlier in the proposed rulemaking, training in professional ethics would be delivered to current educators under revisions to § 49.17(a)(6) that direct school entities to address professional ethics as a component of their continuing professional education plans.

Finally, proposed amendments to subsection (a)(6) would require school entities to provide training in structured literacy for educators at the elementary level as part of existing continuing professional education plans.

Subsections (b) and (c) are proposed to reflect technical amendments to align the regulation with sections 1205.5 and 1217 of the act that set forth requirements for continuing professional education for school and system leaders.

Proposed amendments to subsection (d) align terminology in this section with proposed amendments to the definition of "certified personnel" in § 49.1.

§ 49.18. *Assessment*

Proposed amendments to subsection (a) and provide clarification that assessments used to demonstrate the knowledge and skills delineated in this section may be stand-alone measures. These clarifications reflect existing practice in preservice assessment.

Subsection (b) is proposed to be amended for grammatical consistency with the proposed amendments to subsection (a).

Subsection (c) is proposed to be amended for clarification and for cross-reference to changes enacted under the act of October 22, 2014 (P.L. 2624, No. 168) which added section 1207.3 of the act (24 P.S. § 12-1207.3). Section 1207.3 establishes satisfactory achievement of the basic skills assessment as a requirement to be reached prior to formal entry into a certification preparation program and further established that candidates enrolled in a postbaccalaureate certification program are not required to take and pass a basic skills assessment.

Subsection (d) is proposed to be amended to establish a more feasible timeframe for conducting periodic reviews of assessments required for certification by changing the timeframe from every 3 years to every 5 years.

Subsection (e) is proposed to be amended to clarify that certifications added-on through testing by individuals with an Instructional I or Intern Certificate may be issued in related subject areas, and retains the exclusion for all special education certificates to be added-on through testing. Proposed amendments to this section clarify the Board's role in consulting with the Secretary in identifying other certification areas that may be excluded.

§ 49.31. *Criteria for eligibility*

Section 49.31 (relating to criteria for eligibility) proposes to add language to include approved private schools and eligible providers as defined in Chapter 405.2 (relating to definitions) to reflect changes in statute.

§ 49.65. *Out-of-State and Nationally-certified applicants*

Subsection (a)(3) is proposed to be amended to make clear that the section refers to subjects on out-of-State certificates, rather than to subjects that the candidate desires to teach.

Subsection (d) is proposed to be added to permit school psychologists certified by the National Association of School Psychologists to be granted the highest level certificate available for certification as a school psychologist. This revision parallels existing policy for classroom teachers in subsection (c) that permits educators certified by the National Board for Professional Teaching Standards to be granted the highest level certificate applicable.

Subsection (e) is proposed to be amended to reflect more accurate terminology and to make clear that a candidate must demonstrate mastery of the "certification" area, not the "subject" area. In this subsection, the existing reference to "bachelor's" is replaced with "baccalaureate" to align with the new proposed definition of "baccalaureate degree" in § 49.1.

Multiple provisions of Chapter 49 are being updated to reflect changes made to statute by the act of June 30, 2011 (P.L. 112, No. 24), including proposed amendments to subsection (f). The act of June 30, 2011 (P.L. 112, No. 24) modified eligibility requirements, set forth in section

1206(a) of the act (24 P.S. § 12-1206(a)), for issuing instructional certificates to candidates who hold a valid certificate from another state. Proposed technical amendments presented in subsection (f) bring the regulation in line with eligibility requirements as now defined in statute regarding the experience that must be demonstrated by out-of-State candidates certified in another state who are seeking certification in this Commonwealth. Proposed revisions to this section add references to educational specialist, supervisory and administrative certificates to clarify the types of certificates to which these requirements apply.

§ 49.72. *Categories of certificates and letters of eligibility*

Subsection (a)(10) proposes to rename the category of “Vocational Education Certificates” as “Career and Technical Education Certificates.” This terminology update is consistent with global terminology changes enacted throughout the act by the act of October 30, 2019 (P.L. 460, No. 76).

§ 49.82. *Instructional I*

Subsection (a) proposes to add language for consistency with Chapter 405.2 regarding eligible providers and in acknowledgement of additional providers for qualified service leading to conversion of Instructional Level I to Instructional Level II certification.

§ 49.83. *Instructional II*

The proposed amendment to § 49.83(1) (relating to instructional II) establishes completion of a 2-year induction program as a requirement to earn an Instructional II certification. This revision is included for consistency with the proposed amendments to § 46.16(a) (relating to approval of induction plans) that would strengthen the supports available to beginning educators by extending the length of induction programs to 2 years.

§ 49.84. *Collegiate credit acceptable for conversion of the Instructional I Certificate*

Subsection (a) proposes to add a reference to “approved associate degree-granting institutions” to permit credits earned at a community college to be accepted toward credits required to convert an Instructional Level I to an Instructional Level II certificate.

Subsection (c) proposes to add language to permit graduate credits earned before an individual becomes certified to count toward the credits required for conversion of a Level I certificate.

§ 49.85. *Limitations*

Subsection (c) proposes to reflect technical amendments to align the regulation with changes to Special Education certificates under the act enacted by the act of October 19, 2018 (P.L. 545, No. 82) that added section 1202.1 of the act (24 P.S. § 12-1202.1). These statutory changes modified the grade spans and ages for these certificates and decoupled the requirement for special education certificates to be issued in tandem with an additional content area certificate.

Language in subsection (f)(2) is proposed to be amended for clarity.

Subsection (g) proposes to update existing language that permits the Secretary to grant exceptions in response to shortages of certified personnel to include an effective date of January 1, 2022. This revision aligns the date of applicability with changes to the act enacted under the act of October 19, 2018 (P.L. 545, No. 82).

§ 49.86. *Accelerated program for Early Childhood and Elementary/Middle level certificate holders*

The proposed amendment separates the words “certificate” and “holders” to correct a typographical error in the existing text of the regulation.

§ 49.90. *Criteria for eligibility*

Language in subsection (a)(1) related to eligibility criteria for a Temporary Teaching Certificate is proposed to be deleted as the criteria are no longer used due to changes in statute.

§ 49.91. *Criteria for eligibility*

Consistent with revisions elsewhere in the regulation, subsection (c) is proposed to be amended for clarity to refer to “certification” area rather than “subject” area.

Subsection (d) proposes to reflect revisions both for clarity and to align with practice that an Intern Certificate is valid for 3 years of service, rather than 3 calendar years.

§ 49.92. *Term of validity*

Like § 49.91(d) (relating to criteria for eligibility), this proposed amendment reflects both clarity and alignment with practice that an Intern Certificate is valid for 3 years of service, rather than 3 calendar years.

§ 49.104. *College credit acceptable for conversion of Educational Specialist I Certificate*

Subsection (c) proposes to permit graduate credits earned before certification as an Educational Specialist to count toward conversion of the certificate from Level I to Level II.

§ 49.111. *Supervisory Certificate*

Subsections (b) and (c) are proposed to permit individuals certified in one area of supervision to add-on another area by demonstrating expertise in the content of that area. Special Education Supervisory Certificates would be excluded from this add-on pathway.

Subsection (e) is proposed to be added to permit school psychologists who have completed 5 years of satisfactory certified experience as a school psychologist to be issued a Special Education Supervisory Certificate. The Board proposes this revision to help increase the availability of qualified special education supervisors in this Commonwealth.

§ 49.121. *Administrative Certificate*

Subsection (a) proposes to align the regulation with changes to the act enacted under the act of July 20, 2007 (P.L. 278, No. 45) that established school leadership standards that must be addressed in principal and superintendent leadership programs.

Subchapter C. Career and Technical Education Certification

Throughout the entirety of Subchapter C (relating to vocational education certification), and the balance of Chapter 49, references to “vocational-technical education” are proposed to be amended to refer to the more current term “career and technical education.” These proposed amendments are included for consistency with the same terminology updates that were reflected globally in the act under revisions enacted under the act of October 30, 2019 (P.L. 460, No. 76).

§ 49.131. *Basic requirements for baccalaureate and nonbaccalaureate programs*

Proposed amendments to subsection (a) replace “teacher education” with a more current and more accurate refer-

ence to “educator preparation,” as reflected throughout the chapter, and adds a reference to the proposed new definition for “alternative program provider” to recognize the presence of these providers in the landscape of educator preparation.

§ 49.142. *Career and Technical Instructional I*

Proposed amendments to subsections (a)(1) and (b) align these provisions with statutory changes enacted under the act of June 22, 2018 (P.L. 241, No. 39) that address requirements for issuing Career and Technical Instructional I, Career and Technical Instructional II and Career and Technical Intern certification.

Section 49.143. *Career and Technical Instructional II*

Proposed amendments to paragraph (2) align this provision with statutory changes enacted under the act of June 22, 2018 (P.L. 241, No. 39) that address requirements for issuing Career and Technical Instructional I, Career and Technical Instructional II and Career and Technical Intern certification.

Paragraph (3) is proposed to be amended for clarity to bring the conversion of Career and Technical I certification to Career and Technical II certification into alignment with conversion from Instructional I to Instructional II under § 49.18(a) (relating to assessment).

Paragraph (4) proposes to establish completion of a 2-year induction program as a requirement to earn a Career and Technical Instructional II certification. This revision is included for alignment with the proposed amendments to § 46.16(a) that would strengthen the supports available to beginning educators by extending the length of induction programs to 2 years.

Section 49.151. *Eligibility and criteria*

Proposed amendments to subsection (b) align this provision with statutory changes enacted under the act of June 22, 2018 (P.L. 241, No. 39) that address requirements for issuing Career and Technical Instructional I, Career and Technical Instructional II and Career and Technical Intern certification.

Subsection (c) is proposed to be added to clarify that continuing enrollment in a State-approved teacher intern program is a condition for maintaining the validity of a Career and Technical Education Intern Certificate from one year to the next. This clarification aligns with language regarding eligibility for Intern Certificates as set forth in § 49.91(d) (relating to criteria for eligibility).

§ 49.153. *Career and Technical Day-to-Day Substitute Permit*

Subsection (b) proposes to delete a cross-reference to § 49.32 (relating to exceptional case permits).

§ 49.163. *Career and Technical Administrative Director*

Proposed amendments to paragraph (1) that reduce the minimum number of years required from 5 years to 3 years reflect technical amendments to align with changes in statute. Further revisions to this section provide clarity and relevancy by amending the phrase “successful teaching in vocational education” with the phrase “relevant professional experience in a Career and Technical Education School.”

Paragraph (2) proposes to add a cross-reference to § 49.111(a) (relating to supervisory certificate) and add a reference to an “approved alternative program” as established under section 1207.1 of the act.

§ 49.172. *Letter of eligibility*

Subsection (a)(3) reflects proposed technical amendments to align eligibility requirements for receiving a Superintendent’s Letter of Eligibility with changes to section 1000.3 of the act (24 P.S. § 10-1003) enacted under the act of June 30, 2012 (P.L. 684, No. 82). These changes permit individuals to earn a Superintendent’s Letter of Eligibility based on prior experience in higher education.

§ 49.182. *Letter of eligibility*

Subsection (d) is proposed to be added by the Board to permit Intermediate Unit Boards of Directors to address vacancies in their Executive Director positions by appointing an Acting Director to serve in that capacity for not more than 1 year if the Intermediate Unit (I.U.) Board finds it impossible or impractical to fill the vacancy.

§ 49.191. *Letters of equivalency*

Paragraph (1) proposes to clarify procedures for earning a letter of equivalency for a baccalaureate degree by removing the requirement that the minimum number of credits toward the equivalency that must be earned at a State-approved baccalaureate degree granting institution, currently set at 18 of the 90 total credits required, must be completed during the final 30 credits.

Paragraph (2) proposes to update language for clarity to refer to certification area as opposed to primary teaching assignment. This clarification is being recommended so that college-level credits earned in pursuit of a Letter of Equivalency for a master’s degree be in the candidate’s certification area(s) rather than in the primary teaching assignment. This proposed revision improves the alignment of the credits with the candidate’s formal education and area(s) of expertise, if these are different from the primary teaching assignment. In addition, this proposed revision streamlines application reviews by the Department as staff examining applications have ready access to the candidate’s certification area(s) but not the primary teaching assignment.

Affected Parties

This proposed rulemaking would affect educator preparation program providers and the students enrolled in their programs, public school entities and educators.

Cost and Paperwork Estimates

Extending induction programs to 2 years may result in a cost for school entities that do not currently offer that length of support for beginning educators. Currently, 58 school entities offer a 2-year induction program and another 68 school entities offer a 3-year induction program. There are 551 school entities that offer a 1-year induction program. This proposed rulemaking would impact those 551 school entities that would need to extend induction programs for another year. Costs to districts could range from \$1,000 to \$5,000 per second-year teacher to support mentor stipends and additional professional development days. The estimated cost to school entities for scaling to 2-year induction programs State-wide is \$9,643,000 (based on the 551 school entities that would need to convert from a 1-year to a 2-year induction model and an assumption that each of those school entities would support seven second-year teachers annually at a cost of \$2,500 per second-year teacher).

The Department would incur costs to support the delivery of training in new competencies for educators as part of both induction programs and professional education for current classroom educators. Some training op-

portunities focused on the new competencies identified in the proposed amendments already are available through the State's existing network of I.U.s and other professional development educational entities within this Commonwealth. Work to develop additional trainings in mental wellness, trauma-informed instruction, cultural awareness, and virtual and technological engagement, and to provide professional development to I.U. staff to serve as trainers, is estimated at a one-time cost of \$26,700. This estimate is based on engaging 10 stakeholders over a 2-day period to develop new topics and trainings at a cost of \$3,000 for facilitators and \$2,000 to support expenses related to this work, and an additional cost of \$21,700 to train one staff person in each of the State's 29 I.U.s at a cost of \$750 per I.U.

Support for providing training to current classroom educators at the elementary level in structured literacy is estimated at \$350,000 annually. Professional development training and technical assistance in structure literacy currently is available at no cost to school entities through the Pennsylvania Training and Technical Assistance Network. To support the proposed amendments to Chapter 49 that would require this training for all elementary educators, the Department intends to enhance and scale up the current offerings by hiring a Statewide lead for structured literacy efforts and establishing a Statewide system of supports in structured literacy through the existing network of I.U.s. The estimated annual cost to support this work is based on a cost of \$203,000 to support trainings to be offered by 29 I.U.s (estimated at \$700/day for 10 days annually) and to support the salary and benefits of hiring a Statewide lead. Support for the first 2 years of this work has been budgeted through Federal funds available through the Coronavirus Aid, Relief, and Economic Security Act (Pub.L. 116-136, 134 Stat. 281) (CARES Act) set aside funds.

Effective Date

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

Sunset Date

The Board will review the effectiveness of Chapter 49 every 10 years in accordance with § 49.51(b) that directs the Board to conduct a major review of certification regulations at 10-year intervals. Thus, no sunset date is necessary.

Regulatory Review

Under sections 5(a) and 5(f) of the Regulatory Review Act (71 P.S. §§ 745.5(a) and (f)), on December 8, 2020, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Legislative Reference Bureau. Under section 5(f) of the Regulatory Review Act, the Board will submit this proposed regulation and a copy of the Regulatory Analysis Form to the Chairpersons of the House and Senate Committees on Education at the start of the 2021-2022 legislative session, no later than the second Monday after the date by which both committee designations have been published in the *Pennsylvania Bulletin*. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections 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 Regula-

tory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor.

Public Comments and Contact Person

Interested persons and individuals affiliated with small businesses are invited to submit written comments, questions, suggestions, commendations, concerns or objections regarding this proposed rulemaking to Karen Molchanow, Executive Director, State Board of Education, 333 Market Street, 1st Floor, Harrisburg, PA 17126, ra-stateboardofed@pa.gov. Comments must be submitted to the Board within 30 days of publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling the Board at (717) 787-3787 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

KAREN MOLCHANOW,
Executive Director

Fiscal Note: 6-346. (1) General Fund; (2) Implementing Year 2020-21 is \$350,000; (3) 1st Succeeding Year 2021-22 is \$376,000; 2nd Succeeding Year 2022-23 is \$350,000; 3rd Succeeding Year is \$350,000; 4th Succeeding Year is \$350,000; 5th Succeeding Year is \$350,000; (4) 2019-20 Program—\$5,309,000; 2018-19 Program—\$5,309,000; 2017-18 Program—\$5,959,000; (7) Teacher Professional Development (8) recommends adoption. Funds have been included in the budget to cover this increase.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart C. HIGHER EDUCATION

CHAPTER 49. CERTIFICATION OF PROFESSIONAL PERSONNEL

Subchapter A. GENERAL PROVISIONS

THE PROGRAM

§ 49.1. Definitions.

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

Act—The Public School Code of 1949 (24 P.S. §§ 1-101—27-2702).

Alternative program provider—provider of accelerated post-baccalaureate preparation program, other than an institution of higher education, that has been approved by the Department in accordance with section 1207.1 of the act (24 P.S. § 12-1207.1(a)).

Approved [teacher] educator certification program—A sequence of courses and experiences, offered by a preparing institution [which] or **alternative program provider, that** is reviewed and approved by the Department.

* * * * *

Assessment of subject matter—A measurement of a candidate's knowledge of an academic field or discipline to be taught in the public schools of this Commonwealth.

Baccalaureate degree—A conferred bachelor's degree from an approved 4-year college or university.

The Department shall accept a conferred graduate degree as satisfaction of the Baccalaureate/bachelor's degree required for issuance of a certificate or permit.

Candidate—A person seeking certification in any of the areas outlined in this chapter.

Certificate—A document prepared and issued by the Department indicating that the holder has completed an approved professional preparation program and is qualified to perform specific professional duties.

Certified personnel—Professional employees, excluding school secretaries, as defined in section 1101 of the act (24 P.S. § 11-1101) or educators, or both, holding a comparable certificate from another state.

Chief school administrator—The superintendent, intermediate unit executive director, or equivalent private school administrator.

* * * * *

Community provider—A not-for-profit or for-profit organization that operates prekindergarten programs.

Completer—A candidate who has successfully met all requirements of an approved certification preparation program of any type. Except where specified in certification definitions and in program framework guidelines, Department-required certification assessments are not considered program requirements.

Continuing professional education—The formal acquisition of collegiate or in-service credits designed to improve and expand the expertise of professional personnel.

Core academic subject—Includes reading, language arts, mathematics, science, foreign languages, social studies and the arts.

Culturally relevant and sustaining education (CR-SE)—Education that ensures equity for all students and seeks to eliminate systemic institutional racial and cultural barriers that inhibit the success of all students in this Commonwealth—particularly those who have been historically underrepresented. Culturally Relevant and Sustaining Education encompasses skills for educators including, but not limited to, approaches to mental wellness, trauma-informed approaches to instruction, technological and virtual engagement, cultural awareness and any factors that inhibit equitable access for all students in this Commonwealth.

Day-to-day substitute permit—A permit issued for no longer than 20 consecutive days to fill a position due to the absence of professional certified personnel.

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Educational specialist—Professional certified personnel whose primary responsibility is to render professional service other than classroom teaching, such as dental hygienist, home and school visitor, instructional technology specialist, social restoration specialist, nutrition service specialist, elementary counselor, secondary counselor, school nurse and school psychologist.

Educator Discipline Act—24 P.S. §§ 2070.1a—2070.18a.

Emergency permit—A permit issued to fill a vacancy resulting from resignation, termination, retirement, death or the creation of a new position.

Exceptional case permit—A permit issued to fill a vacancy due to exceptional conditions.

Historically underrepresented groups—Groups that are documented to have been represented across time in the educator population in proportions below their representation in the general population. These include, but are not limited to, people of color, the economically disadvantaged and first-generation college-goers.

Inclusive setting—The placement of a diverse learner in a regular classroom setting.

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PSPC—Professional Standards and Practices Commission—A body composed of educators from the fields of basic and higher education, members of the general public and an ex officio member of the Board established by the [**Professional**] Educator Discipline Act.

* * * * *

Preparing institution—A college or university that offers a program approved by the Department to prepare professional personnel for employment in the public schools.

[Professional certified personnel—Professional employees, excluding school secretaries, as defined in section 1101 of the act (24 P.S. § 11-1101).]

Professional duties—A duty the performance of which is restricted to [**professional**] personnel by the scope of their certificate.

[Professional Educator Discipline Act—24 P.S. §§ 2070.1a—2070.18a.]

Professional ethics—The accepted and collectively agree upon standards of behavior, values, and principles that, in conjunction with applicable laws and regulations, are meant to inform and guide professional decision-making. These standards of behavior, values, and principles include those detailed in the most recent Model Code of Ethics for Educators, as published by the National Association of State Directors of Teacher Education and Certification, and other ethical codes, guidelines, or standards unique to professional disciplines.

Satisfactory achievement—An acceptable level of performance as determined by the Secretary in consultation with the Board on the Department-prescribed assessments required in this chapter.

School entity—Public schools, school districts, intermediate units, area [**vocational-technical**] **career and technical** schools, charter schools, cyber schools and independent schools.

Structured literacy—Systemic, explicit instruction that integrates listening, speaking, reading, and writing and emphasizes the structure of language across the speech sound system (phonology), the writing system (orthography), the structure of sentences (syntax), the meaningful parts of words (morphology), the relationships among words (semantics), and the organization of spoken and written discourse.

Subject Area—Specific areas of instructional content.

Term of validity—A period of time as specified in §§ 49.33, 49.34, 49.82, 49.92, 49.102, 49.142 and 49.152

in which the holder of a certificate is entitled to perform the professional duties for which the certificate was issued.

§ 49.12. Eligibility.

In accordance with sections 1109, 1202 and 1209 of the act (24 P.S. §§ 11-1109, 12-1202 and 12-1209), every professional employee certified or permitted to serve in the schools of this Commonwealth shall:

(1) Be of good moral character.

[(2) Provide a physician's certificate stating that the applicant, with or without reasonable accommodation, is able to perform successfully the essential functions and duties of an educator. A qualified applicant who has tuberculosis or another communicable disease or a mental disability, will not be deemed to pose a direct threat to the health or safety of others unless a threat to health or safety cannot be eliminated by a reasonable accommodation.]

[(3)] (2) Be at least 18 years of age.

[(4)] (3) Except in the case of the Resource Specialist Permit, [Vocational Instructional Intern Certificate, and Vocational Instructional Certificate, have earned minimally a baccalaureate degree as a general education requirement] Career and Technical Emergency Permit, Career and Technical Instructional Intern Certificate, and Career and Technical Instructional Certificate, have earned a baccalaureate degree.

§ 49.13. Policies.

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(b) The Department will have the following responsibilities with respect to certification and permitting of professional personnel in the schools of this Commonwealth:

(1) Provision of advisory services to college and school personnel in matters pertaining to [teacher education] educator preparation and certification.

(2) Designation of professional titles for personnel.

(3) Prescription of procedures for issuance of certificates and permits.

(4) Evaluation and approval of [teacher education] educator preparation programs leading to the certification and permitting of professional personnel.

(i) The evaluation by the Department will provide assurance that, on or before January 1, 2011, teacher education programs will require at least 9 credits of 270 hours, or an equivalent combination thereof, regarding accommodations and adaptations for students with disabilities in an inclusive setting. Within the context of these 9 credits or 270 hours, instruction in literacy skills development and cognitive skill development for students with disabilities must be included, as determined by the institution. At least 3 credits or 90 additional hours, or an equivalent combination thereof, must address the instructional needs of English language learners. For purposes of this requirement, 1 credit equals 30 hours of coursework. Applicable hours are limited to a combination of seat hours of classroom instruction, field observation experiences, major research assignments, and development and implementation of lesson plans with accommodations and adaptations for diverse learners in an inclusive setting.

(ii) The evaluation by the Department will provide assurance that educator preparation programs demonstrate the integration of professional ethics throughout the preparation program.

[(ii)] (iii) Program approval reviews shall be conducted by professional educators from basic and higher education.

* * * * *

(c) Except for applicants whose certification status is subject to subsection (b)(9) and § 49.171 (relating to general requirements), the Department will require that an applicant for a certificate shall have completed an approved [teacher] preparation program and shall be recommended by the preparing institution or **alternative program provider.**

(d) The Department will have the right to review approved programs at any time. Major evaluations shall be conducted at 7-year intervals, by professional educators appointed by the Department in accordance with subsection (b)(4), to review process and content.

(e) The Department will accept the request of an institution to withdraw from an approved program. The Department will have the right to withdraw the approval of a program from an institution. New students may not be accepted in a program which has lost its approved status after the date of the action.

(f) The Department shall prescribe procedures for evaluation of an applicant's preparation in the event that application for a certificate is made after the program at a preparing college or university has closed or been discontinued.

§ 49.14. Approval of institutions **and alternative program providers.**

To be authorized to conduct programs that lead to certificates for professional positions, institutions and any of their off-campus centers **as well as alternative program providers** engaged in the preparation of [teachers] **educators** shall meet the following requirements:

(1) Be approved as a baccalaureate or graduate degree granting institution **or alternative program provider** by the Department.

(2) Be evaluated and approved as [a teacher] **an educator** preparing institution **or alternative program provider** to offer specific programs leading to certification in accordance with procedures established by the Department.

(3) Report to the Department, for approval, all planned changes in previously approved programs. This report shall be made 90 days prior to the implementation of the planned changes.

(4) Follow Department prescribed standards developed from the following principles:

(i) Institutions **and alternative program providers** develop clear goals and purposes for each program, [including attention to professional ethics and responsibilities.] **which shall include competencies, coursework and field experiences that address professional ethics, cognitive competencies, structured literacy, and culturally relevant and sustaining education. The Department will identify these competencies and develop associated standards.**

(ii) Institutions **and alternative program providers** are able to demonstrate how instructional and clinical activities provide educator candidates with the capacity to enable the achievement of all students, including diverse learners in an inclusive setting.

(iii) Institutions **and alternative program providers** are able to demonstrate that educator candidates have participated in instructional activities that enable the candidates to provide instruction to students to meet the provisions of Chapter 4 (relating to academic standards and assessment).

(iv) Institutions **and alternative program providers** are able to demonstrate that educator candidates successfully participate in sequential clinical experiences fully integrated within the instructional program **as determined by the Secretary in consultation with the State Board.**

(v) Institutions **and alternative program providers** have clearly expressed standards for admission to, retention in and graduation from approved programs and **[actively encourage the participation of students from historically underrepresented groups.] can demonstrate recruitment and participation of students from historically underrepresented groups. Institutions and alternative program providers annually will report on students admitted, retained, and graduated from their programs, including numbers from historically underrepresented groups.**

(vi) Institutions **and alternative program providers shall** provide ongoing assessment of educator candidates' knowledge, skills, dispositions and performance with which to identify needs for further study, certification assessment assistance or clinical experience or dismissal from the program.

(vii) Institutions **and alternative program providers** can demonstrate how information from systematic evaluations of their programs, including students and educator evaluators, and achievement levels of candidates for certification in the Department-designed assessment program, are used for continual program improvement **and shall develop corrective action steps if identified as at-risk or low performing program providers as defined by the Department.**

(viii) Institutions **and alternative program providers**, in partnership with local education agencies, provide a school-based experience integrating the teacher candidates' knowledge, skills and dispositions in professional practice. This experience shall be fully supported by institutional faculty, including frequent observation, consultation with supervising teachers and opportunities for formative and summative evaluation. **Minimum numbers of pre-culminating field experience hours shall be determined by the Secretary in consultation with the Board. Requirements for culminating field experiences, including length of culminating field experiences beyond the minimum required in § 354.25(f) (relating to preparation program curriculum), shall be determined by the Secretary in consultation with the Board. Additional requirements for supervising teachers, beyond the minimum required in § 354.25(f)(2), shall be determined by the Secretary in consultation with the Board. Requirements for supervising teachers in fields that are customarily staffed at one per building or at similarly low levels not addressed in § 354.25 shall be determined by the Secretary in consultation with the Board.**

(ix) Institutions **and alternative program providers** provide ongoing support for novice educators in partnership with local education agencies during their induction period, including observation, consultation and assessment.

(x) Institutions **[provide] and alternative program providers supply** evidence that an acceptable percentage of candidates applying for certification as determined by the Secretary and **approved by the Board** achieve at a satisfactory level on all assessments appropriate to initial certification in each program for which they are approved.

(5) Institutions **and alternative program providers** may enter into articulation agreements with community colleges that permit students to earn credits toward meeting the requirements of this chapter.

(6) Institutions will comply with requirements set forth in the Federal Elementary and Secondary Education Act (20 U.S.C.A. §§ 6301—7981) and the Federal Higher Education Act (20 U.S.C.A. §§ 1001—1019d).

§ 49.15. Approval of experimental programs.

The Department may enter into a written agreement with a preparing institution **or alternative program provider** wishing to conduct an experimental program. The institution **and alternative program provider** shall meet the requirements described in § 49.13 (relating to policies) and § 49.14 (relating to approval of institutions). Certification shall be given to graduates of an experimental program upon recommendation by the institution **or alternative program provider** if the **[institution] provider** has met all of the following requirements:

(1) Submitted a detailed explanation of the experimental program to the Department for approval.

(2) Planned a thorough procedure conforming to accepted canons of educational research for evaluating results of the experimental program. These results shall be reported to the Department in accordance with a schedule approved at the time of the agreement.

(3) Agreed to terminate the experimental program upon request by the Department when it is judged by a program approval team to be inadequate for preparation of professional personnel.

§ 49.16. Approval of induction plans.

(a) Each school entity shall submit to the Department for approval a plan for **[the] a 2-year** induction experience for first-year teachers (including teachers in prekindergarten programs, when offered), long-term substitutes who are hired for a position for 45 days or more and educational specialists. The induction plan shall be submitted every 6 years as required under § 4.13(b) (relating to strategic plans). The induction plan shall be prepared by teacher or educational specialist representatives, or both, chosen by teachers and educational specialists and administrative representatives chosen by the administrative personnel of the school entity. Newly employed professional personnel with prior school teaching experience may be required by the school entity to participate in an induction program. A school entity shall make its induction plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing board and submission of the plan to the Department.

(b) The Department will establish guidelines and will review for approval induction plans submitted by school entities.

(c) Induction plan guidelines shall include professional ethics, cognitive competencies, and culturally relevant and sustaining education as determined by the Secretary.

[(c) (d)] The induction plan shall reflect a mentor relationship between the first-year teacher, long-term substitute or educational specialist, teacher educator and the induction team.

[(d) (e)] Criteria for approval of the induction plans will be established by the Secretary in consultation with the Board and must include induction activities that focus on teaching diverse learners in inclusive settings.

§ 49.17. Continuing professional education.

(a) As required under § 4.13(a) (relating to strategic plans), a school entity shall submit to the Secretary for approval a 3-year professional education plan every 3 years in accordance with the professional education guidelines established by the Secretary and section 1205.1 of the act (24 P.S. § 12-1205.1). A school entity shall make its professional education plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing board and submission of the plan to the Secretary.

* * * * *

(6) The continuing professional education plan must include a section which describes how the professional education needs of the school entity, including those of diverse learners, and its professional employees are to be met through implementation of the plan. The plan must describe how professional development activities will improve language and literacy acquisition for all students **[and], including the provision of training in structured literacy for professional employees at the elementary level. The plan must contribute to closing achievement gaps among students, and improve professional employees knowledge of professional ethics and culturally relevant and sustaining education.**

* * * * *

(b) A commissioned officer who **[obtains] holds** a Letter of Eligibility for Superintendent **[shall present to the Secretary evidence of satisfactory completion of 6 credit hours of continuing professional education courses] shall satisfy the requirements for continuing professional education through the completion of courses and credits approved by the Department to address the school leadership standards of section 1217 of the act (24 P.S. § 12-1217) in accordance with section 1205.5 of the act (24 P.S. § 12-1205.5) every 5 years. [This subsection will be satisfied by taking collegiate studies or Department-approved in-service courses or a combination thereof.]**

(c) **[Professional] Certified** personnel **including school or system leaders defined in section 1205.5(g)** who fail to comply with the continuing professional education plan under subsection (a) or fail to complete the requirements of sections 1205.1 **[and]**, 1205.2 **and 1205.5** of the act will have their certificates or **[commissions] Letter of Eligibility** rendered inactive

by the Department until the requirement is met. **[Professional] Certified** personnel and **school or system leaders** whose certificate or **[commission] Letter of Eligibility** is rendered inactive shall have a right to appeal the action to the Secretary.

(d) School districts that employ **[professional] certified** personnel or commissioned officers with inactive certificates or commissions are subject to penalties provided for under section 2518 of the act (24 P.S. § 25-2518).

(e) Certified personnel are responsible for monitoring their own progress toward completing the requirements prescribed by sections 1205.1 and 1205.2 of the act and for notifying the Department of any changes to their home mailing address.

§ 49.18. Assessment.

(a) The Secretary will **[institute an assessment program] establish assessments** for candidates for certification designed to assess their basic skills; professional knowledge and practice; and subject matter knowledge. Candidates for elementary, K-12 instructional, special education and early childhood certificates shall also be assessed in the area of general knowledge. The following principles will guide the Secretary in the development of **[an] any** assessment **[program]**:

(1) **[The assessment program] Assessments** will be based in the standards developed for each certificate.

(2) **[The assessment program] Assessments** will measure the candidate's abilities across the domains of basic skills knowledge, professional knowledge and practice, and subject matter knowledge employing a variety of measures at a minimum of three points:

(i) During the candidate's preparation program.

(ii) Upon application for initial certification.

(iii) Upon application for Level II, supervisory or administrative certification.

(3) **[The assessment program] Assessments** will be developed in consultation with teachers, administrators, teacher educators and educational specialists with relevant certification.

(4) **[The assessment program] Assessments** will employ, when appropriate, available assessment tools, instruments and procedures.

(b) The Secretary, in consultation with the Board, will establish a satisfactory achievement level for **[the] any** assessments in subsection (a).

(c) The assessments in basic skills **[and] will be given, and satisfactory achievement levels shall be reached, prior to formal entry into a certification preparation program in accordance with section 1207.3 of the act (24 P.S. § 12-1207.3). The assessments in** general knowledge; professional knowledge and practice; and subject matter knowledge will be given, and satisfactory achievement levels shall be **[reached] obtained**, prior to the issuance of a certificate. **Candidates who will complete all certification requirements at the post-baccalaureate level are not required to take and pass assessments in basic skills (See 24 P.S. § 12-1207.3).**

(d) A periodic review of the **[assessment program] assessments** will be made by the Board every **[3] 5** years.

(e) The Department may issue additional subject areas to holders of Instructional (see §§ 49.82 and 49.83 relating to Instructional I; and Instructional II) or Intern (see § 49.91 (relating to criteria for eligibility)) certification in related subject areas and who pass the appropriate subject matter testing components [in areas other than Health and Physical Education, Cooperative Education and all]. All Special Education areas are excluded. The Department may identify other certification areas to be excluded from eligibility based on criteria established by the Secretary [and approved by] in consultation with the Board.

EMERGENCY, LONG-TERM AND DAY-TO-DAY SUBSTITUTE PERMITS

§ 49.31. Criteria for eligibility.

The Department may issue an emergency, Long-Term or Day-to-Day Substitute Permit for service in the public schools, [at the request of the employing public school entity] an approved private school or an eligible provider setting as defined in § 405.2 (relating to definitions), at the request of the employing entity, to an applicant who is a graduate of a 4-year college or [university to] university to fill a vacant position or to serve as a long-term or day-to-day substitute teacher, when a fully qualified and properly certificated applicant is not available. The permit is issued on the basis of terms and conditions agreed upon between the requesting public school entity and the Department. Each July, the Department will report to the Board the number and nature of emergency, Long-Term and Day-to-Day Substitute Permits issued during that year. A long-term substitute permit may be issued only after the position has been posted a minimum of 10 days on the school entity's [website] web site and no qualified candidate has been identified.

MISCELLANEOUS PROVISIONS

§ 49.64a. Authority to annul and reinstate certificates and discipline professional educators.

(a) A professional certificate or letter of eligibility obtained by fraud or mistake shall be considered void "ab initio" and shall be annulled by the Secretary. An annulment will not be effected without prior notice and hearing in accordance with reasonable procedures as the Secretary will prescribe, after review of and comment on the procedures by the Board.

(b) In accordance with the authority vested with the PSPC by the [Professional] Educator Discipline Act, the Commission may discipline professional educators.

(c) In accordance with the authority vested with the PSPC by section 16 of the Teacher Certification Law (24 P.S. § 2070.16), the Commission may reinstate a professional educator's certificate.

§ 49.65. Out-of-State and Nationally-certified applicants.

(a) The Department will issue the appropriate Commonwealth certificate to applicants who have:

(1) Graduated from a State approved out-of-State college or university whose [teacher education] educator preparation requirements are comparable to those of this Commonwealth.

(2) Completed the preparing institution's [teacher education] educator preparation program.

(3) Received the recommendation of the preparing institution for the [subject or area to be taught] out-of-State certificate issued.

(4) Presented evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment) and the requirements of Chapter 354 (relating to teacher preparation).

(b) The Department may enter into a reciprocal certification agreement with the appropriate authority of another state to recognize comparable certificates. A temporary teaching permit may be issued to educators prepared outside of this Commonwealth in accordance with the current reciprocity agreement with other states. It will be valid for 1 year to allow the teacher to meet the Commonwealth's requirements as out lined in the reciprocity agreement.

(c) Candidates certified by the National Board for Professional Teaching Standards will be granted the highest level certificate applicable.

(d) School psychologists certified by the National Association of School Psychologists will be granted the highest level certificate available for certification as a school psychologist.

[(d)] (e) Candidates successfully completing other National teacher training programs that require a candidate to demonstrate mastery of the [subject] certification area to be taught and professional knowledge needed for classroom effectiveness as approved by the Board, will be certified to teach in this Commonwealth, provided the approved program includes 1 year of intensive supervision in an internship program approved by the Secretary and the teacher has satisfied the basic certification requirements of the act (see 24 P.S. §§ 12-1202 and 12-1209), such as having good moral character, being at least 18 years old and having a [bachelor's] baccalaureate degree.

[(e)] (f) Candidates holding a valid and current instructional, educational specialist, supervisory, or administrative certificate issued by [one of the states party to the Interstate Certification Agreement with Pennsylvania] another state may be eligible for comparable certification if [they have taught on the out-of-State certificate for 3 of the past 7 years] the applicant has 2 years of successful classroom or school experience in the area for which Pennsylvania certification is sought and [have] has achieved the qualifying score on the appropriate content area test required by the Commonwealth [and meet the requirements of § 49.12 (relating to eligibility). The out-of-State certificate must be comparable to the grade level and scope of the Pennsylvania certificate being requested, and the test must have been taken within 5 years of the date of application for the Pennsylvania certificate. In those cases, no other tests will be required].

§ 49.68. Evaluation of prescribed requirements and standards.

Institutions of higher education within this Commonwealth with approved [teacher education] educator preparation programs are authorized to evaluate, equate, and accredit educational experience and background of candidates for meeting the specific requirements for certification. A candidate may not be recommended for certification until providing evidence of

satisfactory achievement in the assessments under § 49.18 (relating to assessment).

Subchapter B. CERTIFICATION OF GRADUATES FROM COMMONWEALTH INSTITUTIONS

GENERAL PROVISIONS

§ 49.71. Basic requirements.

Applicants for a certificate shall have completed, in addition to all legal requirements, a program of [**teacher education**] **educator preparation** approved by the Department and shall have the recommendation of the preparing institution.

§ 49.72. Categories of certificates and letters of eligibility.

(a) The following basic categories of certificates and letters of eligibility will be issued by the Department:

- (1) Temporary Permit.
- (2) Emergency and Substitute Permits.
- (3) Intern Certificates.
- (4) Instructional Certificates.
- (5) Educational Specialist Certificates.
- (6) Supervisory Certificate.
- (7) Administrative Certificate.
- (8) Program Specialist Certificate.
- (9) Letters of Eligibility.
- (10) [**Vocational**] **Career and Technical** Education Certificates.
- (11) Exceptional Case Permits.
- (12) Resource Specialist Permits.

(b) The Secretary annually will disseminate an approved list of official titles of all certificates and letters of eligibility which the Department has issued during the past fiscal year or proposes to issue in the ensuing year.

INSTRUCTIONAL CERTIFICATES

§ 49.82. Instructional I.

(a) The Instructional I Certificate is valid for 6 years of teaching in public schools **or in eligible provider settings (as defined in § 405.2 (relating to definitions))** in this Commonwealth in the area for which it applies. It may be converted to an Instructional II Certificate as provided by § 49.83 (relating to Instructional II).

(b) The Instructional I Certificate will be issued to applicants who:

- (1) Possess a baccalaureate degree.
- (2) Present evidence of successful completion of a Department-approved teacher preparation program.
- (3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).
- (4) Receive recommendation for certification from [**a**] **the preparing** college or university **or alternative program provider**.

§ 49.83. Instructional II.

The Instructional II Certificate will be issued to an applicant who has completed:

- (1) A Department-approved **2-year** induction program.

* * * * *

§ 49.84. Collegiate credit acceptable for conversion of the Instructional I Certificate.

(a) College credit acceptable for conversion to the Instructional II Certificate shall be earned at a State-approved **associate degree-granting institution**, baccalaureate or graduate degree granting institution.

(b) Credits earned in programs designed to prepare for professional fields such as law, medicine or theology, when relevant to the area of certification, will be considered acceptable for purposes of renewing or converting the Instructional I Certificate.

(c) Credits shall be earned subsequent to the conferring of the baccalaureate degree. **Graduate credits earned prior to obtaining the Instructional I certificate are considered acceptable for purposes of converting the Instructional I Certificate.**

§ 49.85. Limitations.

* * * * *

(b) For instructional certificates issued on or after January 1, 2013, the grade level limitations shall be the following:

(1) Early Childhood (prekindergarten, kindergarten, grades one through four or ages 3 through 9).

(2) Elementary/Middle (grades four through eight or ages 9 through 14). Elementary/Middle Certificates permit instruction in any subject in grades four, five and six and in a core academic subject or subjects in grades seven and eight.

(3) Secondary (grades seven through twelve or ages 11 through 21).

(4) Specialized Areas (prekindergarten through grade twelve or up through age 21).

(5) Special education-PK—8 (prekindergarten through grade eight (ages 3 through 14)). Applicants for this certificate shall also obtain certification in one of the following certificates:

- (i) Early Childhood—in accordance with paragraph (1).
- (ii) Elementary/Middle—in accordance with paragraph (2).
- (iii) Reading Specialist—in accordance with paragraph (4).

(6) Special Education-7—12 (grades seven through twelve (ages 11 through 21)). Applicants for this certificate shall also obtain certification in one of the following certificates:

- (i) Secondary—in accordance with paragraph (3).
- (ii) Reading Specialist—in accordance with paragraph (4).

(7) Special Education Hearing Impaired, Visually Impaired and Speech/Language Impaired Certificates (prekindergarten, kindergarten, grades one through twelve or ages 3 through 21).

(c) Instructional certificates issued beginning January 1, 2013, through December 31, 2021, remain valid for the term of the certificate for the grade spans and age levels outlined in subsection (b) paragraphs (1)—(7). For instructional certificates issued on or after January 1, 2022, the grade level limitations shall be the following:

(1) Grade level limitations as presented in (b)(1)—(4).

(2) Special Education PK—12 (prekindergarten through grade 12 or under 21 years of age). Applicants for this certificate are not required to obtain any additional certificates.

(3) Special Education Hearing Impaired, Visually Impaired and Speech/Language Impaired Certificates (prekindergarten, kindergarten, grades one through twelve or a person 3 years of age and a person under the age of 21).

[(c) (d)] The decision about staffing based on age or grade level rests with the school entity.

[(d) (e)] The Secretary may grant exceptions to the grade and age level limitations between Early Childhood (subsection (b)(1)), Elementary/Middle (subsection (b)(2)), Special Education-PK—8 (subsection (b)(5)) and Special Education-7—12 (subsection (b)(6)) for individual teachers on a case-by-case basis. The school entity shall submit a written request to the Secretary that provides justification for the exception. The Secretary will set a time limit for each individual exception granted. The Secretary will issue guidelines that outline the circumstances under which exceptions will be granted.

[(e) (f)] When a school district contracts with a community provider for the provision of prekindergarten services, prekindergarten teachers providing the services shall possess a certificate in early childhood as provided in subsection (a)(1) or subsection (b)(1) within the following time frame:

(1) For contracts in place prior to September 22, 2007, September 24, 2012.

(2) For **[new] first-time** contracts, 5 years from the start of services.

[(f) (g)] The Secretary may grant exceptions in response to shortages of certified personnel that apply Statewide to specific provisions of this section when it is necessary to facilitate transition to the revised provisions scheduled to become effective on January 1, **[2013] 2022**. Exceptions may be granted under the following conditions:

(1) The Secretary will provide a written certification to the Board that includes relevant information and justification of the need for the exception. If the Board does not disapprove the exception within 90 days of receipt of the certification, the exception will stand approved.

(2) The exception will be valid for a limited term not to exceed 3 years.

(3) The Secretary will report annually to the Board on the nature and status of exceptions made under this section.

§ 49.86. Accelerated program for Early Childhood and Elementary/Middle level [certificateholders] certificate holders.

(a) The Department will establish standards consistent with the criteria outlined in subsection (d) for an accelerated program for Early Childhood and Elementary/Middle level **[certificateholders] certificate holders** to be effective January 1, 2013.

(b) Early Childhood Instructional I or Instructional II **[certificateholders] certificate holders** may add the Elementary/Middle Level I Certificate through the suc-

cessful completion of a Department approved accelerated program of study offered by an approved Commonwealth institution.

(c) Elementary/Middle Level Instructional I or Instructional II **[certificateholders] certificate holders** may add the Early Childhood Instructional I Certificate through the successful completion of a Department approved accelerated program of study offered by an approved Commonwealth institution.

(d) Accelerated programs must include appropriate level academic content aligned with State academic standards, child development and instructional practice appropriate for the developmental level covered by the certificate. Applicants shall demonstrate subject matter knowledge by passing the appropriate assessment under § 49.18 (relating to assessment).

TEMPORARY TEACHING PERMITS

§ 49.90. Criteria for eligibility.

(a) The Department may make a one-time issuance of a Temporary Teaching Permit for service in a specific area of instruction for use in elementary, middle or secondary schools to applicants who, in addition to meeting the requirements of § 49.12 (relating to eligibility), **[present evidence of one of the following:**

(1) For candidates prepared outside of this Commonwealth, met all requirements for an Instructional I certificate, with the exception of the Math/English course requirements under Chapter 354 (relating to preparation of professional educators).

(2) For candidates holding] hold a credential issued by a Board-approved National alternative certification program¹, **and** completed any ancillary requirements agreed upon by the Department and the credentialing authority.

(b) The Temporary Teaching Permit will be valid for 1 calendar year from the date of issuance.

(c) The Department will issue an Instructional I certificate when the prescribed courses or ancillary requirements are satisfied.

INTERN CERTIFICATES

§ 49.91. Criteria for eligibility.

* * * * *

(c) Intern **[certificate] Certificate** programs must provide flexible and accelerated pedagogical training to teachers who have demonstrated competency in a **[subject]** certification area, provided that the first year of teaching includes a minimum of one classroom observation each month by an approved college/university in this Commonwealth.

(d) An Intern Certificate is valid for 3 **[calendar]** years **of service**. This professional certificate may be issued only to an applicant who is a graduate of an accredited 4-year college or university. During the first year, the applicant shall complete all tests, enroll in an authorized program and complete a minimum of nine credits per year. The certificate requires continuing enrollment in a State-approved teacher intern program. This certificate cannot be renewed.

§ 49.92. Term of validity.

The Intern Certificate will be issued for the period of time necessary for the candidate to complete the approved intern program, but this time period will not exceed 3 years **of service**.

EDUCATIONAL SPECIALIST CERTIFICATES

§ 49.104. College credit acceptable for conversion of Educational Specialist I Certificate.

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(c) Credits shall be earned subsequent to the conferring of the baccalaureate degree. Graduate credits earned prior to obtaining the Educational Specialist I certificate are considered acceptable for purposes of converting the Educational Specialist I Certificate.

SUPERVISORY CERTIFICATES

§ 49.111. Supervisory Certificate.

(a) The Department will issue Supervisory Certificates for positions in the schools of this Commonwealth to persons who:

(1) Have completed 5 years of satisfactory [**professional**] **certified** experience in the area in which the supervisory certificate is sought.

(2) Have completed an approved graduate program preparing the applicant for the responsibilities of supervising in the program area and of directing the activities of certified professional employees.

(3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).

(4) Are able to help students achieve under Chapter 4 (relating to academic standards and assessment).

(5) Meet the following standards:

(i) The supervisor understands the central concepts of organizational leadership, tools of research and inquiry and principles of teaching and learning that make supervision effective and efficient.

(ii) The supervisor understands how all children learn and develop and configures resources to support the intellectual, social and personal growth of all students.

(iii) The supervisor knows and understands effective instructional strategies and encourages and facilitates employment of them by teachers.

(iv) The supervisor uses an understanding of individual and group motivation to create a professional development environment that engages teachers to develop and apply effective instructional techniques for all students.

(v) The supervisor is an effective communicator with various school communities.

(vi) The supervisor organizes resources and manages programs effectively.

(vii) The supervisor understands and uses formative and summative assessment strategies to gauge effectiveness of people and programs on student learning.

(viii) The supervisor understands the process of curriculum development, implementation and evaluation and uses this understanding to develop high quality curricula for student learning in collaboration with teachers, administrators, parents and community members.

(ix) The supervisor possesses knowledge and skills in observation of instruction and conducting conferences with professional staff that are intended to improve their performance and enhance the quality of learning experiences for all students.

(x) The supervisor thinks systematically about practice, learns from experience, seeks the advice of others, draws

upon educational research and scholarship and actively seeks out opportunities to grow professionally.

(xi) The supervisor contributes to school effectiveness by collaborating with other professionals and parents, by using community resources, and by working as an advocate to improve opportunities for student learning.

(b) Notwithstanding the requirements of subsection (a), and excluding Special Education Supervisory Certification, the Department may issue additional Supervisory Certificate areas to individuals who already hold a valid Pennsylvania Supervisory Certificate if they demonstrate competency in the requested supervisory area by one of the following:

(1) complete 12 Department-approved credits of collegiate study in the supervisory area sought, or

(2) achieve a passing score on the applicable content test.

(c) For Supervisory Certificates issued pursuant to paragraph (b), 5 years of service in the area is not required.

[(b)] (d) A Supervisory Certificate for either Curriculum and Instruction or Pupil Personnel Services will be issued to persons who:

(1) Have 5 years of satisfactory professional certified service in the school program area for which the comprehensive certificate is sought.

(2) Have completed an approved graduate program preparing the applicant for the broad area, districtwide supervisory functions specified by the endorsement area of the certificate.

(3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a).

(e) Notwithstanding the requirements of subsection (a), the Department may issue a Special Education Supervisory Certification to individuals who have completed 5 years of satisfactory certified experience as a school psychologist.

ADMINISTRATIVE CERTIFICATES

§ 49.121. Administrative Certificate.

(a) The Department will issue Administrative Certificates to persons who have [had] a minimum of [5] 3 years of satisfactory [**professional certified school instructional or student support experience completed in a public or private PK—12 school or accredited institution of higher education and have completed an approved program of graduate study, approved alternative program, or completed the alternative route in accordance with section 1207.1(d) of the act (24 P.S. § 1207.1(d))** preparing the applicant to direct, operate, supervise and administer the organizational and general educational activities of a school. Applicants shall be recommended by the preparing institution **or alternative program provider** in which the [**graduate**] program was completed. Candidates for administrative certificates shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment).

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Subchapter C. [VOCATIONAL] CAREER AND TECHNICAL EDUCATION CERTIFICATION
GENERAL PROVISIONS

§ 49.131. **Basic requirements for baccalaureate and nonbaccalaureate programs.**

(a) Applicants for a certificate shall have completed, in addition to all legal requirements, a program of [**teacher education**] **educator preparation** approved by the Department and shall have received the recommendation of the preparing institutions **or alternative program provider**.

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§ 49.132. **Types of certificates.**

Five basic types of certificates will be issued, as follows:

- (1) [**Vocational**] **Career and Technical** Instructional Intern.
- (2) [**Vocational**] **Career and Technical** Instructional.
- (3) Supervisor of [**Vocational**] **Career and Technical** Education.
- (4) [**Vocational**] **Career and Technical** Administrative Director.
- (5) [**Vocational**] **Career and Technical** Substitute Permits.

§ 49.133. **Levels of certification.**

[**Vocational**] **Career and Technical** Instructional Certificates shall be issued for the following levels of qualifications:

- (1) Level I (Provisional).
- (2) Level II (Permanent).

[VOCATIONAL] CAREER AND TECHNICAL INSTRUCTIONAL CERTIFICATES

§ 49.141. **General.**

(a) The Department will issue [**Vocational**] **Career and Technical** Instructional Certificates to persons whose primary responsibility is teaching occupational skills in State approved [**vocational**] **career and technical** education programs in the public schools of this Commonwealth. The certificates will be valid for teaching in any [**vocational**] **career and technical** or technical area for which the holder has registered his occupational competency credential with the Department in the manner prescribed by the Department.

(b) The holder of a [**Vocational**] **Career and Technical** Teaching Certificate may also teach the technical skills and knowledge of the holder's occupation in courses of comparable content provided in secondary school programs which have not been accorded State approval as [**vocational**] **career and technical** education programs under conditions in the policies and standards of the Department. Candidates for [**Vocational**] **Career and Technical** Teaching Certificates shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment).

§ 49.142. [**Vocational**] **Career and Technical** Instructional I.

(a) A single certificate will be issued and titled, "[**Vocational**] **Career and Technical** Instructional Certifi-

cate." Individuals qualifying for this certificate shall be authorized to teach in the areas for which they also hold an occupational competency credential. The occupational competency credential will be issued by the Department or an institution of higher education approved by the Secretary. The applicant shall have:

(1) A minimum of [**2 years**] **8,000 hours (equivalent to 4 years full-time)** wage-earning experience [**in addition to the learning period required to establish competency in the occupation to be taught**] **in the occupational area to be taught or 4,000 hours (equivalent to 2 years) wage-earning experience plus a baccalaureate degree.**

(2) Successfully completed the occupational competency examination or evaluation of credentials for occupations where examinations do not exist or present evidence of satisfactory achievement on an assessment of subject matter under § 49.18 (relating to assessment).

(3) Completed 18 credit hours in an approved program of [**vocational teacher education**] **career and technical educator preparation**. For [**Vocational**] **Career and Technical I** Certificates issued on or after January 1, 2013, the 18 credit hours must include at least 3 credits or 90 hours, or equivalent combination thereof, regarding accommodations and adaptations for diverse learners in an inclusive setting. For purposes of this requirement, 1 credit equals 30 hours of coursework. Applicable hours are limited to a combination of seat hours of classroom instruction, field observation experiences, major research assignments, and development and implementation of lesson plans with accommodations and adaptations for diverse learners in an inclusive setting.

(4) Presented evidence of satisfactory achievement on the assessment of basic skills under § 49.18.

(b) The [**Vocational**] **Career and Technical** Instructional I Certificate shall be valid for [**6**] **8** years during which time the applicant shall complete the approved preparation program leading to the [**Vocational**] **Career and Technical Instructional II Certificate**.

§ 49.143. [**Vocational**] **Career and Technical** Instructional II.

The [**Vocational**] **Career and Technical** Instructional II Certificate shall be a permanent certificate issued to an applicant who has:

(1) Completed 3 years of satisfactory teaching on a [**Vocational**] **Career and Technical** Instructional I Certificate attested to by the chief school administrator of the approved public or nonpublic school entity in which the most recent service of the applicant was performed.

(2) Completed [**60 credit hours**] **an additional 42 credit hours** including at least 6 credits or 180 hours, or an equivalent combination thereof, regarding accommodations and adaptations for students with disabilities in an inclusive setting and at least 3 credits or 90 hours, or an equivalent combination thereof, in teaching English language learners, in an approved program in the appropriate field of [**vocational**] **career and technical** education. For purposes of this requirement, 1 credit equals 30 hours of coursework. Applicable hours are limited to a combination of seat hours of classroom instruction, field observation experiences, major research assignments, and development and implementation of

lesson plans with accommodations and adaptations for diverse learners in an inclusive setting.

(3) Presented evidence of satisfactory achievement in assessments **[of general knowledge and of professional knowledge and practice under § 49.18] under § 49.18(a)** (relating to assessment).

(4) Completed a Department-approved **2-year** induction program.

**[VOCATIONAL] CAREER AND TECHNICAL
INTERN CERTIFICATES**

§ 49.151. Eligibility and criteria.

(a) The Department will issue **[Vocational] Career and Technical** Intern Certificates for teaching in State approved programs of **[vocational] career and technical** education in the public schools of this Commonwealth to applicants who have:

(1) Met all eligibility requirements stipulated in § 49.12 (relating to eligibility) except for the baccalaureate degree requirement in § 49.12(4).

(2) Provided evidence of satisfactory achievement in assessments of subject matter under § 49.18 (relating to assessment) or satisfactory occupational competency by one of the following:

(i) Successfully completing the occupational competency examination of the Department.

(ii) Securing recognition of occupational competency upon the basis of credentials review and adequate work experience beyond the learning period as established by the Department in those competency areas where occupational competency examinations do not exist.

(iii) Receiving State licensure or occupational accreditation by a Board of Examiners recognized by the Commonwealth.

(iv) Receiving certification from another state whose certification criteria are similar to those of this Commonwealth.

(3) Been accepted for enrollment in a State approved **[vocational teacher] career and technical educator** preparation program at a Commonwealth college or university.

(4) Been recommended for the certificate by the institution at which they are enrolled or accepted.

(b) The applicant shall be issued a **[Vocational] Career and Technical** Instructional I Certificate upon presenting evidence of **[2 years] 8,000 hours (equivalent to 4 years full-time) wage-earning experience [, completion of an approved intern program,] in the occupational area to be taught** and satisfactory achievement on the assessment of basic skills.

(c) The certificate requires continued enrollment in a State-approved teacher intern program.

§ 49.152. Term of validity.

The **[Vocational] Career and Technical** Instructional Intern Certificate shall be issued for the period of time needed by the applicant to complete 18 semester hours within the approved **[vocational teacher] career and technical educator** preparation program, but in no case shall the validity period exceed 3 years from the date of issuance.

§ 49.153. **[Vocational] Career and Technical** Day-to-Day Substitute Permit.

(a) The chief school administrator or **[vocational] career and technical** school administrative director having jurisdiction over any approved **[Vocational] Career and Technical** Education program is authorized to issue a special Day-to-Day Substitute Permit to an occupational practitioner when no properly certified teachers are available. The teacher shall function under the supervision of a properly certified supervisor or administrator. Assignments as described in this section shall be made only in case of an emergency and may not exceed 20-consecutive school days. This permit will be valid for 20 days of substitute service and may be renewed for an additional 20 school days upon the approval of the Secretary.

(b) This permit does not qualify the holder to serve as a regularly employed teacher to fill a vacant position or as a long-term substitute. These positions shall be filled by a person holding a valid **[Vocational] Career and Technical** Instructional or a State issued Long-term or Day-to-Day Substitute Permit. **[Reference should be made to § 49.32 (relating to Exceptional Case Permits).]**

**SUPERVISOR OF [VOCATIONAL] CAREER AND
TECHNICAL EDUCATION CERTIFICATE**

§ 49.161. Supervisor of **[Vocational] Career and Technical** Education.

(a) The Department will issue a Supervisor of **[Vocational] Career and Technical** Education Certificate to a person who has a minimum of 3 years satisfactory certified **[vocational] career and technical** teaching experience and whose primary assignment will be one or more of the following:

(1) Instructional supervision in the fields of **[vocational] career and technical** education—**[vocational] career and technical** agriculture, **[vocational] career and technical** business, distributive education, health occupations, **[vocational] career and technical** home economics, and **[vocational] career and technical** industrial, or trade and industrial—in area **[vocational] career and technical** schools and corresponding **[vocational] career and technical** courses in the public secondary schools of this Commonwealth.

(2) Directing the activities of professional staff teaching in the program areas specified in paragraph (1).

(b) The Department will issue a Supervisor of **[Vocational] Career and Technical** Education Certificate to a person who shall meet the requirements of § 49.111(a)(3)—(5) (relating to Supervisory Certificate).

**[VOCATIONAL] CAREER AND TECHNICAL
ADMINISTRATIVE DIRECTOR CERTIFICATE**

§ 49.163. **[Vocational] Career and Technical** Administrative Director.

The Department will issue the **[Vocational] Career and Technical** Administrative Director Certificate to persons who:

(1) Have a minimum of [5] 3 years [**successful teaching in vocational education**] **of relevant professional experience in a Career and Technical Education School.**

(2) Have completed an approved program of graduate study following standards listed in [§] §§ 49.111(a) and 49.121(d) (relating to **Supervisory Certificate; and Administrative Certificate**) **or an approved alternative program under section 1207.1 of the act (24 P.S. § 12-1207.1)** preparing them to direct, operate, supervise, and administer the organizational and educational activities of a [**vocational technical**] **career and technical school or department; applicants shall be recommended by the preparing institution in which the graduate program was completed.**

(3) Present evidence of satisfactory achievement on assessments prescribed by the Department under § 49.18(a) (relating to assessment).

Subchapter D. OUT-OF-STATE APPLICANTS

§ 49.172. Letter of eligibility.

(a) The Department will issue the appropriate letter of eligibility for consideration for appointment as a district superintendent or an assistant district superintendent to an applicant who:

(1) Has completed a Pennsylvania approved graduate level program of educational administrative study for the preparation of chief school administrators or been prepared through an out-of-State graduate level program equivalent to those approved in this Commonwealth.

(2) Has received the recommendation of the preparing institution for certification as a chief school, district level, administrator.

(3) Has provided evidence of 6 years of [**certified**] **satisfactory educational or student support** service in [**the basic**] **private or public K-12 schools [and, for the superintendent's letter, including] or an accredited institution of higher education of which at least 3 years [of satisfactory certified] must be service in** supervisory or administrative positions.

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Subchapter E. COMMISSIONS AND CERTIFICATES FOR INTERMEDIATE UNITS

§ 49.182. Letter of eligibility.

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(c) A commission will be issued to a person holding an appropriate letter of eligibility upon the candidate's election as the executive director or assistant executive director of an intermediate unit by its respective board of directors.

(d) When an Intermediate Unit Board of Directors finds it impossible or impractical to fill immediately a vacancy occurring in the position of intermediate unit executive director or assistant intermediate unit executive director, the board may appoint an acting intermediate unit executive director or an acting intermediate unit executive director who does not meet the requirements of subsection (a) to serve no more than 1 year from the time of the appointment as acting intermediate unit executive director or acting assistant intermediate unit executive director.

Subchapter F. LETTERS OF EQUIVALENCY FOR PAY PURPOSES

§ 49.191. Letters of Equivalency.

A Letter of Equivalency will be issued for salary purposes only, subject to the following terms and conditions:

(1) The Letter of Equivalency for Baccalaureate Degree is issued to holders of [**Vocational**] **Career and Technical** Instructional I, [**Vocational**] **Career and Technical** Instructional II or their equivalents upon the accumulation of 90 college credits. A minimum of 18 credit hours [**of the final 30**] shall be earned at a State-approved baccalaureate degree granting institution. [**The remaining 12**] **Twelve of the final 30 credit hours** may be satisfied, in full or in part, through in-service programs approved by the Secretary for meeting baccalaureate equivalency requirements.

(2) The Letter of Equivalency for Master's Degree is issued to persons holding a valid Instructional I, Instructional II, Educational Specialist I, Educational Specialist II certificate, [**Vocational**] **Career and Technical** Instructional I, [**Vocational**] **Career and Technical** Instructional II certificate, or their equivalents, upon the accumulation of 36 hours of graduate level credit. A minimum of 18 academic graduate credits shall be earned in the content area of the applicant's [**primary teaching assignment**] **certification area(s)** at a college or university approved to offer graduate work. A maximum of 18 of the credit requirement may be satisfied through in-service programs approved by the Secretary for meeting master's equivalency requirements.

(3) A grade of "C" or better is required in college and university courses in which grades are given and a letter of satisfactory completion is required for all in-service courses used toward the attainment of the certificate.

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STATE BOARD OF PHYSICAL THERAPY

[49 PA. CODE CH. 40]

Child Abuse Reporting Requirements

The State Board of Physical Therapy (Board) proposes to amend §§ 40.12, 40.16, 40.19, 40.67, 40.162, 40.191, 40.192 and 40.201—40.207 and add §§ 40.208 and 40.209 (relating to child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 3(a) of the Physical Therapy Practice Act (63 P.S. § 1303(a)) sets forth the Board's general rule-making authority. Under 23 Pa.C.S. Chapter 63 (relating to Child Protective Services Law) (CPSL), specifically section 6383(b)(2) of the CPSL (relating to education and

training), the Board is required to promulgate regulations to implement the mandatory reporting requirements for licensees and certificate holders of the Board.

Background and Purpose

Beginning in 2014, and continuing through 2019, the General Assembly made numerous amendments to the CPSL, including the requirement imposed under the act of April 15, 2014 (P.L. 411, No. 31) (Act 31) on all health-related Boards to require training in child abuse recognition and reporting for licensees and certificate holders who are considered “mandated reporters” under the CPSL. Section 2 of Act 31 provided that these training requirements would apply to all persons applying for a license or certificate, or applying for renewal of a license or certificate, on or after January 1, 2015, and were implemented as of that date. These proposed amendments are required to update the Board’s existing regulations on the subject of child abuse reporting to be consistent with the CPSL.

Description of the Proposed Amendments

The Board proposes to amend §§ 40.12, 40.16 and 40.162 (relating to application for licensure; licensure by endorsement; and application for certification) to include the requirement that an applicant for licensure as a physical therapist or certification as a physical therapist assistant complete at least 3 hours of training in child abuse recognition and reporting as a condition of licensure or certification as required by Act 31. Similarly, the Board proposes to amend §§ 40.19 and 40.191 (relating to renewal of physical therapist license; and renewal of certification) to set forth the requirement imposed by Act 31 that all licensees and certificate holders applying for biennial renewal complete at least 2 hours of continuing education in child abuse recognition and reporting as a condition of renewal. The Board is also proposing amendments to §§ 40.67 and 40.192 (relating to continuing education for licensed physical therapist; and continuing education for certified physical therapist assistant) to incorporate these 2 contact hours of continuing education.

The Board next proposes comprehensive amendments to the child abuse reporting requirements in Subchapter D (relating to child abuse reporting requirements). First, the Board proposes to amend § 40.201 (relating to definitions) to update the definitions of terms used in the CPSL. Specifically, the Board finds it necessary to define the terms “bodily injury,” “child,” “parent,” “program, activity or service” and “serious physical neglect” and to amend the definitions of “child abuse,” “perpetrator,” “person responsible for the child’s welfare,” “recent acts or omissions” and “sexual abuse or exploitation” to comport with amendments made to the CPSL. The Board proposes to add definitions for the terms “Bureau” and “mandated reporter” for ease of reference. The Board proposes to delete definitions for “individual residing in the same home as the child” and “serious physical injury” because these terms have been deleted from the CPSL. The Board also proposes to amend, where necessary throughout this proposed rulemaking, “Department of Public Welfare” to “Department of Human Services,” as the name of that agency has changed.

The Board is proposing to amend § 40.202 (relating to suspected child abuse—mandated reporting requirements) to provide the general rule that all licensed physical therapists and certified physical therapist assistants are considered mandated reporters, and to set forth the mandated reporting requirements in section 6311(b) of the CPSL (relating to persons required to report sus-

pected child abuse), and the reporting procedures in section 6313 of the CPSL (relating to reporting procedure). The Board has also determined that it is necessary to propose amendments to § 40.203 (relating to photographs, medical tests and X-rays of child subject to report) to set forth the requirement to submit documentation, summaries or reports relating to photographs, medical tests and X-rays to the county children and youth social service agency within 48 hours of making an electronic report in accordance with section 6314 of the CPSL (relating to photographs, medical tests and X-rays of child subject to report).

The Board is proposing to amend § 40.204 (relating to suspected death as a result of child abuse—mandated reporting requirement) to incorporate an amendment made to section 6317 of the CPSL (relating to mandatory reporting and postmortem investigation of deaths) to permit a report to be made to the appropriate coroner or medical examiner of the county where the death occurred, or of the county where the injuries were sustained. Further, the Board is proposing to amend § 40.205 (relating to immunity from liability) to incorporate amendments made to section 6318 of the CPSL (relating to immunity from liability); and to amend § 40.206 (relating to confidentiality—waived) to incorporate the provisions of section 6311.1 of the CPSL (relating to privileged communications). The Board proposes to amend § 40.207 (relating to noncompliance) to update the criminal penalties for willful failure to make a report or referral to conform to the increased criminal penalties in the amendments to section 6319 of the CPSL (relating to penalties).

The Board proposes to add two sections to Subchapter D to incorporate the mandatory training requirements in Act 31. Proposed § 40.208 would set forth the requirements in section 6383(b)(3) of the CPSL that all individuals applying to the Board for an initial license or certificate are required to complete at least 3 hours of training in child abuse recognition and reporting which has been approved by the Department of Human Services; and that all licensees and certificate holders seeking renewal are required to complete at least 2 hours of continuing education in child abuse recognition and reporting as a requirement of renewal. The Board would also provide notice that these 2 or more hours of training would be accepted as a portion of the total continuing education required for biennial renewal, and not an additional requirement, as provided in section 6383(b)(3)(ii) of the CPSL. In addition, the Board would provide notice that it will not renew a license or certificate unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee or certificate holder or the licensee or certificate holder has obtained an exemption as permitted by the CPSL.

This section would also include the process for applying for an exemption from the mandatory training requirements as set forth in section 6383(b)(4) and (6) of the CPSL, for individuals who have already completed similar training or who otherwise should be exempt from the training requirements. The Board notes that section 6383(b)(4)(ii)(B) of the CPSL provides an exemption for individuals who have already completed child abuse recognition training required by the Human Services Code (62 P.S. §§ 101—1503) (formerly known as the Public Welfare Code), and the training was approved by the Department of Human Services. However, the Department of Human Services has confirmed that there is no

provision in the Human Services Code that requires such training. Instead, section 6383(c) of the CPSL sets forth the requirement that certain individuals and entities regulated by the Department of Human Services complete mandated reporter training. Therefore, the Board believes it is appropriate to include an exemption for a licensee or certificate holder who has already completed comparable training in child abuse recognition and reporting required by the Department of Human Services under section 6383(c). For example, if a physical therapist happened to be a foster parent and, therefore, was required to complete the training under section 6383(c), there would be no need to repeat the training as a condition of licensure or license renewal under section 6383(b). In addition, section 6383(b)(6) permits the Board to exempt a licensee or certificate holder from the training requirement if the licensee or certificate holder “submits documentation acceptable to the licensing board that the licensee [or certificate holder] should not be subject to the training or continuing education requirement.” The Board believes that this section also provides authority to the Board to determine that those licensees and certificate holders who are required to complete comparable training under section 6383(c) should be exempt from the training requirement under section 6383(b), provided they submit acceptable documentation to the Board evidencing completion of comparable training.

Finally, the Board proposes to add § 40.209 to set forth the administrative process developed by the Bureau of Professional and Occupational Affairs (Bureau), in conjunction with the Department of Human Services, for individuals, entities and organizations to apply for approval to deliver the training required under Act 31. The Bureau has established a requirement that to be approved to provide the mandatory training in child abuse recognition and reporting, an applicant must be able to report participation/attendance electronically to the Bureau. In this manner, the completion of the training is automatically imported into the individual’s record with the Board at the time the course is completed. Then, prior to issuing or renewing a license or certificate, the system verifies that the training was completed as required. If no record exists, the applicant, licensee or certificate holder would be notified of the need to complete an approved course before the license or certificate can be issued or renewed.

Fiscal Impact and Paperwork Requirements

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these amendments. Because licensees and certificate holders are already required to complete mandatory continuing education, and these 2 hours in child abuse recognition and reporting are incorporated in the existing requirement, there would be no increased burden. Only applicants for licensure or certification would incur an additional requirement, and as there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal. Because all approved training providers of the mandatory training in child abuse recognition and reporting are required to report attendance/participation electronically, there are no additional paperwork requirements imposed on licensees or certificate holders. In addition, the implementation of an electronic reporting system for mandated reporters of child abuse under the CPSL by the Department of Human Services has decreased the paperwork requirements related to the mandatory reporting requirements.

Sunset Date

The Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P.S. § 745.5(f)), on December 9, 2020, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC). A copy of this material is available to the public upon request. On the same date, the Board submitted this proposed rulemaking to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The Board will submit this proposed rulemaking and required material to the standing committees of the House and Senate no later than the second Monday after the date by which both committee designations have been published in the *Pennsylvania Bulletin*.

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

Public Comment

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed rulemaking to Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-STRegulatoryCounsel@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be identified as pertaining to rulemaking 16A-6518 (Child Abuse Reporting Requirements).

CYNTHIA POTTER, PT, DPT,
Chairperson

Fiscal Note: 16A-6518. 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 40. STATE BOARD OF PHYSICAL THERAPY

Subchapter A. PHYSICAL THERAPISTS LICENSURE

§ 40.12. Application for licensure.

- (a) Evidence, satisfactory to the Board, shall be submitted indicating that the applicant:
 - (1) Is at least 20 years of age, unless otherwise waived upon application to and review by the Board.
 - (2) Is of good moral character.
 - (3) Is not addicted to the habitual use of alcohol, narcotics or other habit forming drugs.

(4) Has met the professional requirements in § 40.11 (relating to educational requirements for licensure by examination).

(5) Has completed at least 3 hours of training in child abuse recognition and reporting in accordance with § 40.208(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(b) The applicant shall apply on forms supplied by the Board, answer all questions fully and provide all documentation required under subsection (a).

(c) The applicant shall pay the fee in § 40.5 (relating to fees) for application for physical therapist licensure by examination/endorsement.

* * * * *

§ 40.16. Licensure by endorsement.

(a) An applicant for licensure by endorsement who is educated in another state or territory of the United States is required to submit the professional credentials in § 40.11 (relating to license by examination; requirements for examination), and comply with the following:

(1) **[Submit] The applicant shall submit** a written application on forms provided by the Board, together with evidence satisfactory to the Board that the applicant is licensed or otherwise registered as a physical therapist in another state or territory of the United States, or in the District of Columbia, if the requirements for licensure or registration in the state, territory or district were, at the date of licensure or registration, substantially equal to the requirements for licensure or registration in this Commonwealth under the act.

(2) **[A] The applicant shall submit the** fee prescribed in § 40.5 (relating to fees) **[must accompany each application]** for licensure by endorsement.

(3) The applicant shall have completed at least 3 hours of training in child abuse recognition and reporting in accordance with § 40.208(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(b) In addition to the requirements in subsection (a), an applicant for licensure by endorsement who received education in a country outside of the United States is required to meet the educational requirements as set forth in § 40.17(5) and (6) (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience)[.] **and comply with the following:**

(1) The applicant shall submit documentary evidence that the applicant is authorized to practice as a physical therapist without limitation in the country where the professional education occurred.

(2) The applicant shall hold a valid license by examination in another state or territory of the United States, providing the requirements were, at the time of receiving the license, substantially equivalent to the requirements as set forth in the act.

(3) The applicant shall have completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 40.208(a) (relating to child abuse recognition and reporting—mandatory training requirement).

§ 40.19. Renewal of physical therapist license.

* * * * *

(c) A licensee applying for biennial renewal shall:

(1) Complete and submit the renewal application, including payment of the biennial renewal fee in § 40.5 (relating to fees) for application for biennial renewal of physical therapist license.

(2) Disclose any license to practice as a physical therapist in another state, territory, possession or country.

(3) Disclose any disciplinary action pending before the appropriate healthcare licensing authority in any other jurisdiction or taken since the most recent application for renewal, whether or not licensed to practice in that other jurisdiction.

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

(5) Verify that the licensee has complied with the continuing education requirements mandated by section 7.2 of the act (63 P.S. § 1307.2) during the biennial period immediately preceding the period for which renewal is sought in accordance with § 40.67 (relating to continuing education for licensed physical therapist), **including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 40.208(b) (relating to child abuse recognition and reporting—mandatory training requirement).** The Board will not renew a license if the licensee has not completed the continuing education required under **[section 7.2 of the act] § 40.67** during the biennial period immediately preceding the period for which renewal is sought.

(6) Verify that, if practicing as a physical therapist in this Commonwealth, the licensee maintains professional liability insurance coverage in accordance with section 9(b)(4) of the act (63 P.S. § 1309(b)(4)) and § 40.69 (relating to professional liability insurance).

CONTINUING EDUCATION

§ 40.67. Continuing education for licensed physical therapist.

(a) *Contact hour requirements.* **[Beginning with the January 1, 2013—December 31, 2014 biennial renewal period, a]** **A** licensed physical therapist shall satisfy the following continuing education requirements.

(1) During each biennial renewal period, a licensee shall complete qualifying continuing education equal to at least 30 contact hours of continuing physical therapy education, including at least 2 contact hours in law or ethics applicable to the practice of physical therapy, **and at least 2 contact hours in child abuse recognition and reporting in accordance with § 40.208(b) (relating to child abuse recognition and reporting—mandatory training requirement).**

* * * * *

Subchapter C. PHYSICAL THERAPIST ASSISTANTS

CERTIFICATION

§ 40.162. Application for certification.

(a) he applicant shall submit evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met the following criteria. The applicant:

(1) Is at least 18 years of age, unless otherwise determined by the Board that the [candidate] applicant has proved the capability to accept and handle the responsibilities appurtenant to certification.

(2) Is of good moral character.

(3) Is not addicted to the habitual use of alcohol, narcotics or other habit-forming drugs.

(4) Has met the professional requirements for certification under § 40.163 (relating to requirements for certification).

(5) Has completed at least 3 hours of training in child abuse recognition and reporting in accordance with § 40.208(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(b) An applicant for certification issued by the Board shall apprise the Board of the following:

* * * * *

MAINTENANCE OF CERTIFICATION

§ 40.191. Renewal of certification.

* * * * *

(c) To retain the right to provide services as a physical therapist assistant, the certified physical therapist assistant's certification shall be renewed by the certified physical therapist assistant in the manner prescribed by the Board, and the required fee shall be paid by the certified physical therapist assistant prior to the expiration of the next biennium. A certified physical therapist assistant applying for biennial certificate renewal shall:

(1) Complete and submit the renewal application, including payment of the biennial renewal fee in § 40.5 (relating to fees) for application for biennial renewal of physical therapist assistant certificate.

(2) Disclose any license, certificate, registration or other authorization to provide services as a physical therapist assistant in another state, territory, possession or country.

(3) Disclose any disciplinary action pending before the appropriate healthcare licensing authority in any other jurisdiction or taken since the most recent application for renewal, whether or not licensed, registered or certified to practice in that other jurisdiction.

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

(5) Verify that the certified physical therapist assistant has complied with the continuing education requirements mandated by section 9.1(j) of the act (63 P.S. § 1309.1(j)) during the biennial period immediately preceding the period for which renewal is sought in accordance with § 40.192 (relating to continuing education for certified physical therapist assistant), including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 40.208(b) (relating to child abuse recognition and reporting—mandatory training requirement). The Board will not renew a physical therapist assistant certification if the certified physical therapist assistant has not completed the continuing education required under [section 9.1(j) of the act] § 40.192 during the biennial period immediately preceding the period for which renewal is sought.

* * * * *

CONTINUING EDUCATION

§ 40.192. Continuing education for certified physical therapist assistant.

(a) *Contact hour requirements.* [Beginning with the January 1, 2013—December 31, 2014 biennial renewal period, a] A certified physical therapist assistant shall satisfy the following continuing education requirements.

(1) During each biennial renewal period, a certified physical therapist assistant shall complete qualifying continuing education equal to at least 30 contact hours of continuing physical therapy education, including at least 4 contact hours in identifying and responding to emergency health conditions [and], at least 2 contact hours in law or ethics applicable to the practice of physical therapy and at least 2 contact hours in child abuse recognition and reporting in accordance with § 40.208(b) (relating to child abuse recognition and reporting—mandatory training requirement).

* * * * *

Subchapter D. CHILD ABUSE REPORTING REQUIREMENTS

§ 40.201. Definitions.

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

Act—The Physical Therapy Practice Act (63 P.S. §§ 1301—1312).

Bodily injury—Impairment of physical condition or substantial pain.

Bureau—Bureau of Professional and Occupational Affairs within the Department of State of the Commonwealth.

Child—An individual under 18 years of age.

Child abuse—[A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.]

Intentionally, knowingly or recklessly doing any of the following:

(i) Causing bodily injury to a child through any recent act or failure to act.

(ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease

which results in a potentially harmful medical evaluation or treatment to the child through any recent act.

(iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.

(iv) Causing sexual abuse or exploitation of a child through any act or failure to act.

(v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.

(vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(vii) Causing serious physical neglect of a child.

(viii) Engaging in any of the following recent acts:

(A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

(B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.

(C) Forcefully shaking a child under 1 year of age.

(D) Forcefully slapping or otherwise striking a child under 1 year of age.

(E) Interfering with the breathing of a child.

(F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), when the victim of the sexual offense was under 18 years of age when the crime was committed.

(II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(ix) Causing the death of the child through any act or failure to act.

(x) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

ChildLine—An organizational unit of the Department of [**Public Welfare**] **Human Services**, which operates a 24-hour a day Statewide toll-free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.]

Mandated reporter—A person who is required under section 6311 of the Child Protective Services Law (23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse)) to make a report of suspected child abuse. For purposes of this subchapter, the term includes all physical therapists and physical therapist assistants.

Parent—A biological parent, adoptive parent or legal guardian.

Perpetrator—[A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.] A person who has committed child abuse as defined in this section.

(i) This term includes only the following:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption of the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person 18 years of age or older and responsible for the child's welfare.

(E) A person 18 years of age or older who resides in the same home as the child.

Person responsible for the child's welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a

child in lieu of parental care, supervision and control. [The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.]

Program, activity or service—Any of the following in which children participate and which is sponsored by a school or a public or private organization:

- (i) A youth camp or program.
- (ii) A recreational camp or program.
- (iii) A sports or athletic program.
- (iv) A community or social outreach program.
- (v) An enrichment or educational program.
- (vi) A troop, club or similar organization.

Recent [acts or omissions—Acts or omissions] act or failure to act—An act or failure to act committed within 2 years of the date of the report to the Department of [Public Welfare] Human Services or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

- (i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.
- (ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

[Serious physical injury—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.]

Serious physical neglect—Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- (i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
- (ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Sexual abuse or exploitation—[The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.] Any of the following:

- (i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or

assist another individual to engage in sexually explicit conduct, which includes the following:

(A) Looking at sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

(ii) Any of the following offenses committed against a child:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

§ 40.202. Suspected child abuse—mandated reporting requirements.

(a) General rule. Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), [physical therapists and physical therapist assis-

tants who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare and to the appropriate county agency when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.] all physical therapists and physical therapist assistants are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(1) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

(2) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(3) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(4) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* [Physical therapists and physical therapist assistants who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the Board regulated practitioner, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d)] Whenever a physical therapist or physical therapist assistant is required to make a report under subsection (a) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, the physical therapist or physical therapist assistant shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) *Reporting procedure.* [Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.]

A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(1) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this subparagraph may be submitted electronically.

(2) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (relating to electronic reporting) through the Department of Human Service's Child Welfare Information Solution self-service portal at www.compass.state.pa.us/cwis. A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(d) *Written or electronic reports.* [Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available] A written or electronic report of suspected child abuse, shall include the following information, if known:

(1) The names and addresses of the child [and the parents or], the child's parents and any other person responsible for the [care of the child, if known] child's welfare.

(2) Where the suspected child abuse occurred.

(3) The age and sex of [the subjects] each subject of the report.

(4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or [siblings] any sibling of the child.

(5) The name and relationship of [the persons] each individual responsible for causing the suspected abuse [, if known,] and any evidence of prior abuse by [those persons] each individual.

(6) Family composition.

(7) The source of the report.

(8) The name, telephone number and e-mail address of the person making the report [and where that person can be reached].

(9) The actions taken by the [reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner] person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.

[(10) Other information which the Department of Public Welfare may require by regulation.]

(10) Other information required by Federal law or regulation.

(11) Other information which the Department of Human Services may require by regulation.

§ 40.203. Photographs, medical tests and X-rays of child subject to report.

A physical therapist or physical therapist assistant may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent, **or within 48 hours after an electronic report is made under § 40.202(c)(2) (relating to suspected child abuse—mandated reporting requirements)**, or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

§ 40.204. Suspected death as a result of child abuse—mandated reporting requirement.

A physical therapist or physical therapist assistant who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner **or medical examiner** of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner **or medical examiner** of the county where the injuries were sustained.

§ 40.205. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a physical therapist or physical therapist assistant who participates in good faith in the making of a report **of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team**, testifying in a proceeding arising out of an instance of suspected child abuse **or general protective services** or **[the taking of photographs] engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317**, shall have immunity from civil and criminal liability that might **otherwise** result by reason of the physical therapist's or physical therapist assistant's actions. For the purpose of any civil or criminal proceeding, the good faith of the physical therapist or physical therapist assistant shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a physical therapist's or physical therapist assistant's actions **[in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs] under §§ 40.202—40.204 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and x-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).**

§ 40.206. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 40.202—40.204 (relating to suspected child

abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the confidentiality provisions in § 40.52(c) (relating to unprofessional conduct; physical therapists) and any other client confidentiality, ethical principle or professional standard that might otherwise apply. **In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse.**

§ 40.207. Noncompliance.

(a) *Disciplinary action.* A physical therapist or physical therapist assistant who willfully fails to comply with the reporting requirements in §§ 40.202—40.204 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 11 of the act (63 P.S. § 1311).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties **[for failure to report]**), a physical therapist or physical therapist assistant who is required to report a case of suspected child abuse **or to make a referral to the appropriate authorities and** who willfully fails to do so commits **[a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.] a criminal offense, as follows:**

(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if all of the following apply:

(i) The mandated reporter willfully fails to report.

(ii) The child abuse constitutes a felony of the third degree or higher.

(iii) The mandated reporter has direct knowledge of the nature of the abuse.

(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.

(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under 23 Pa.C.S. § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

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

§ 40.208. Child abuse recognition and reporting—mandatory training requirement.

(a) Except as provided in subsection (c), individuals applying to the Board for an initial license or certificate shall complete, as a condition of licensure, at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services.

(b) Except as provided in subsection (c), licensees and certificate holders seeking renewal of a license or certificate issued by the Board shall complete, as a condition of biennial renewal of the license or certificate, at least 2 hours of approved continuing education in child abuse recognition and reporting, as a portion of the total continuing education required for biennial renewal. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 40.209 (relating to child abuse recognition and reporting course approval process). The Board will not renew a license or certificate unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee or certificate holder in an approved course or the licensee or certificate holder has obtained an exemption under subsection (c).

(c) An applicant, licensee or certificate holder may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant, licensee or certificate holder meets one of the following:

(1) The applicant, licensee or certificate holder submits documentation demonstrating that:

(i) The applicant, licensee or certificate holder has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

(ii) The training was approved by the Department of Education in consultation with the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(2) The applicant, licensee or certificate holder submits documentation demonstrating that:

(i) The applicant, licensee or certificate holder has already completed child abuse recognition training required by section 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(3) The applicant, licensee or certificate holder submits documentation demonstrating that the applicant, licensee or certificate holder should not be subject to the training or continuing education requirement. Each request for an exemption under this paragraph will be considered on a case-by-case basis.

§ 40.209. Child abuse recognition and reporting course approval process.

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as re-

quired under 23 Pa.C.S. § 6383(b) (relating to education and training) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services, Office of Children, Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120; or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649; or electronically at RA-steps1_course_app@pa.gov.

(b) Submissions shall include the following:

(1) Contact information (mailing address, e-mail address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) All course related materials, including as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript or recording of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which shall include:

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

(iv) Length of training (2 or 3 hours).

(v) Name and signature of the authorized representative of the provider. The signature may be an electronic signature.

(vi) Statement affirming the participant attended the entire course.

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau's web site and the Board's web site.

[Pa.B. Doc. No. 20-1774. Filed for public inspection December 18, 2020, 9:00 a.m.]

STATE BOARD OF PSYCHOLOGY

[49 PA.CODE CH. 41]

Licensure by Endorsement

The State Board of Psychology (Board) proposes to amend Chapter 41 by adding §§ 41.52a and 41.52b (relating to licensure by endorsement; and provisional endorsement license) and amending § 41.1 (relating to definitions) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The provisions of 63 Pa.C.S. § 3111 (relating to licensure by endorsement) require licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration.

The act of July 1, 2020 (P.L. 545, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) into Title 63, Chapter 31 of the *Pennsylvania Consolidated Statutes*. The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41).

Background and Need for the Amendments

This proposed rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license to applicants who meet the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111. Under 63 Pa.C.S. § 3111, the Board must determine whether standards for licensure are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of competency, including comple-

tion of continuing education or experience in the profession or occupation for at least 2 of the 5 years preceding the date of the application, and must establish, by regulation, the expiration of provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

Description of the Proposed Amendments

The Board proposes to amend § 41.1 by adding a definition for the term "jurisdiction." The term "jurisdiction" is defined consistent with 63 Pa.C.S. § 3111 to include a state, territory or country. The Board proposes to add §§ 41.52a and 41.52b. Proposed § 41.52a requires an applicant to satisfy seven criteria for licensure by endorsement. The first criterion, as set forth in proposed subsection (a)(1), require an applicant to provide proof of a current license, certification, registration or permit in good standing to practice in another jurisdiction whose standards are substantially equivalent to or exceed those established by the Board under section 6 of the Professional Psychologists Practice Act (act) (63 P.S. § 1206) regarding qualification for license, and §§ 41.31 and 41.32 (relating to educational qualifications; and experience qualifications), respectively. Proposed subsection (a)(1) further requires an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. This proposed rulemaking would also require that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because 63 Pa.C.S. § 3111 is applicable to territories and other countries that use languages other than English, where the applicable law, regulation or other rule is in a language other than English, the Board would require, at the applicant's expense, translation of the applicable law, regulation or other rule by a professional translation service.

The second criterion requires demonstration of competency and is set forth in proposed subsection (a)(2). Under this provision, an applicant must provide proof of competency by demonstrating either experience in the practice of the profession or completion of continuing education. To demonstrate competency by experience, an applicant must demonstrate active engagement in the practice of psychology for at least 2 of the 5 years immediately preceding the date of the application in the jurisdiction that issued the license, certificate, registration or permit. To demonstrate competency by continuing education, an applicant must submit proof of completion of 30 hours of continuing education that meets the requirements of § 41.59 (relating to continuing education). The continuing education must be completed during the 24 months immediately preceding the date of the application. The Board proposes completion of the continuing education within 24 months immediately preceding the date of the application because a 24-month limitation correlates with the Board's biennial renewal continuing education requirement.

The third and fourth criteria are set forth in proposed subsection (a)(3) and (4) which incorporates the statutory prohibitions in 63 Pa.C.S. § 3111(a)(3) and (4) pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession or occupation, and prior discipline by the jurisdiction that issued the license.

The fifth criterion is set forth in proposed subsection (a)(5) and provides for payment of an application fee, as required under 63 Pa.C.S. § 3111(a)(5). The applicable fee for licensure by endorsement under 63 Pa.C.S. § 3111 is the initial application fee in § 41.12 (relating to fees) of the Board's current fee schedule (\$105).

The sixth criterion requires applicants to satisfy application requirements, as set forth in the act and Chapter 41, including compliance with § 41.30(b)(2) and (3) (relating to qualifications and documentation necessary for licensure). Under § 41.30(b)(2) and (3), an applicant is required to submit a criminal history records information report and a Child Abuse History Clearance.

Finally, the seventh criterion requires completion of 3 hours of training in child abuse recognition and reporting, which is mandated continuing education under the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training).

In proposed § 41.52a(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. Also, consistent with 63 Pa.C.S. § 3111(a)(3) and (4), proposed § 41.52a(c) authorizes the Board, in its discretion, to determine that an act prohibited under section 8 of the act (63 P.S. § 1208) or disciplinary action by a jurisdiction are not impediments to the granting of a license, certification, registration or a permit by endorsement under 63 Pa.C.S. § 3111.

Consistent with 63 Pa.C.S. § 3111(b), proposed § 41.52b provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under 63 Pa.C.S. § 3111 and proposed § 41.52a. Proposed § 41.52b(b) sets the expiration of a provisional endorsement license at 1 year, unless the Board determines that an expiration date of less than 1 year is appropriate. Additionally, upon a written request, the Board may extend the term of the license upon a showing of good cause. Proposed § 41.52b(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board denies a license or the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license. Finally, proposed § 41.52b(d) clarifies that while an individual may reapply for a license by endorsement under proposed § 41.52a, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

Fiscal Impact and Paperwork Requirements

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement will be recouped through fees paid by applicants. Applicants who apply for licensure by endorsement will be impacted by the \$105 initial application fee in § 41.12 and may incur continuing education expenses if they choose to demonstrate competency by completing 30 hours of continuing education. Applicants who demonstrate competency through experience will have to pay the \$105 initial application fee. All applicants must complete child abuse recognition and reporting training, as required by section 6383(b)(3)(i) of the CPSL. There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training.

Sunset Date

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

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P.S. § 745.5(f)), on December 9, 2020, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC). A copy of this material is available to the public upon request. On the same date, the Board submitted this proposed rulemaking to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The Board will submit this proposed rulemaking and required material to the standing committees of the House and Senate no later than the second Monday after the date by which both committee designations have been published in the *Pennsylvania Bulletin*.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Board Counsel, State Board of Psychology, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-STRegulatoryCounsel@pa.gov within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference 16A-6326 (Licensure by Endorsement), when submitting comments.

RICHARD F. SMALL, PhD,
Chairperson

Fiscal Note: 16A-6326. No fiscal impact. Any associated costs are covered by a fee; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 41. STATE BOARD OF PSYCHOLOGY GENERAL

§ 41.1. Definitions.

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

* * * * *

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.

Jurisdiction—A state, territory or country.

National Register—The Council for the National Register of Health Service Providers.

* * * * *

MISCELLANEOUS

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

§ 41.52a. Licensure by endorsement.

(a) *Requirements for issuance.* To be issued a license by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement), an applicant must satisfy all of the following requirements:

(1) Has a current license, certification, registration or permit in good standing to practice psychology in another jurisdiction whose standards are substantially equivalent to or exceed those established by the Board under section 6 of the act (63 P.S. § 1206) and §§ 41.31 and 41.32 (relating to educational qualifications; and experience qualifications).

(i) An applicant must submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certification, registration or permit.

(ii) If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

(iii) The copy of the applicable law, regulation or other rule must include the enactment date.

(2) Demonstrates competency by one of the following:

(i) Experience in the practice of psychology by demonstrating, at a minimum, that the applicant has actively engaged in the practice of psychology in the jurisdiction that issued the license, certificate, registration or permit for 2 of the last 5 years immediately preceding the filing of the application with the Board.

(ii) Completion of 30 hours of continuing education that meets the requirements of § 41.59 (relating to continuing education) during the 24 months immediately preceding the date of the application.

(3) Has not committed any act that constitutes grounds for refusal, suspension or revocation of a license to practice psychology under section 8 of the act (63 P.S. § 1208).

(4) Has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.

(5) Has paid the initial application fee as set forth in § 41.12 (relating to fees).

(6) Satisfies application requirements as required by the act and this chapter, including § 41.30(b)(2) and (3) (relating to qualifications and documentation necessary for licensure).

(7) Completes 3 hours of training in child abuse recognition and reporting from a provider approved by the Department of Human Services as required under 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training).

(b) *Interview and additional information.* An applicant may be required to appear before the Board for a personal interview and may be requested to submit additional information, including supporting documentation relating to competency and experience.

(c) *Prohibited acts.* Notwithstanding subsection (a)(3) and (4), the Board may, in its discretion, determine that an act prohibited under section 8 of the act or disciplinary

action by a jurisdiction are not impediments to the granting of a license by endorsement under 63 Pa.C.S. § 3111.

§ 41.52b. Provisional endorsement license.

(a) *Provisional endorsement license.* The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 41.52a(a) (relating to licensure by endorsement).

(b) *Expiration of a provisional endorsement license.*

(1) An individual holding a provisional endorsement license may practice for up to 1 year after issuance of the provisional endorsement license. The Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon a written request and a showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) *Termination of a provisional endorsement license.* A provisional endorsement license terminates as follows:

(1) The provisional endorsement license terminates when the Board denies the license.

(2) Failure to comply with the terms of a provisional endorsement license will result in termination of the provisional endorsement license.

(d) *Reapplication.* An individual may reapply for licensure by endorsement under § 41.52a after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.

[Pa.B. Doc. No. 20-1775. Filed for public inspection December 18, 2020, 9:00 a.m.]

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CHS. 123 AND 133]

Definitions and Redetermination

The Department of Human Services (Department), under the authority of sections 201(2), 403(b) and 432.2 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 432.2), proposes to amend Chapters 123 and 133 (relating to definitions; and redetermining eligibility) to read as set forth in Annex A.

Purpose of Rulemaking

The purpose of this proposed rulemaking is to expand the types of interviews available to Temporary Assistance for Needy Families (TANF) applicants and recipients to meet application and redetermination requirements. This proposed rulemaking removes the need for a face-to-face interview and adds a definition for "personal interview," which will enable TANF applicants and recipients to participate in required interviews by phone, in person or by other means approved by the Department. This change will make the TANF interview process more flexible, efficient and accessible for applicants and recipients.

Background

Prior to determination of eligibility, under section 432.2(a), the Department must conduct a personal interview with the applicant or with the caretaker relatives of the needy children. Under the current definitions in § 123.22 (relating to definitions), the Department must conduct a face-to-face interview in the County Assistance Office (CAO) for each TANF application and redetermination. Because Federal TANF regulations do not require that TANF interviews be face-to-face, the Department proposes to expand the means by which the Department may interview TANF applicants and recipients.

Requirements

The following is a summary of the proposed changes:

§ 123.22. Definitions

The Department proposes to amend the definitions of application interview and screening interview to delete the requirement that these interviews be face-to-face, requiring a “personal interview” instead. The Department also proposes to add a definition for personal interview. A personal interview is a meeting or discussion between an applicant or recipient, and an eligibility worker, which may be in person, by telephone or by other means approved by the Department. The Department proposes to replace “filed application form” with “application” because applications may also be submitted electronically. The Department also proposes to remove the term “CAO” from the definition to reflect that an eligibility worker will conduct the interview, regardless of location in or out of a County Assistance Office.

§ 133.23. Requirements

The Department proposes to delete text in subsection (c) that requires face-to-face redetermination contacts in the home or office and to add text to require the Department to conduct a personal interview.

Affected Individuals and Organizations

This proposed rulemaking affects TANF applicants and recipients.

Accomplishments and Benefits

These proposed amendments will make the TANF interview process more flexible, and accessible for applicant and recipients. The change will also make the TANF review process more flexible and efficient for the Department. With these changes, the required personal interview may be in person, by telephone or by other means approved by the Department. With expanded interview options, the Department may plan with applicants and recipients the most convenient and efficient type of personal interview. For applicants and recipients, these options can save time and avoid the extra travel and childcare expenditures they might have with face-to-face interviews.

Fiscal Impact

There are no costs associated with this proposed rulemaking. This proposed rulemaking may result in travel cost savings for applicants and recipients. Applicants and recipients may also avoid travel and childcare expenditures and lost wages from unpaid leave time.

Paperwork Requirements

There are no new paperwork requirements under this proposed rulemaking.

Effective Date

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to the Department of Human Services, Office of Income Maintenance, Room 230, 1006 Hemlock Drive, P.O. Box 2675, Harrisburg, PA 17110-3595, RA-Oimcomments@pa.gov using the subject header “Definitions and Redetermination Regulations.” Comments, suggestions or objections are due within 30 days from the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-550 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 7, 2020, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) during a sine die session. On the fourth Monday in January 2021, or after both Committees have been designated, whichever is later, the Department will submit a copy of this proposed rulemaking to the Chairpersons of the House Committee on Health and the Senate Committee on Health and Human Services. In addition to submitting this proposed rulemaking, the Department has provided to IRRC, and will provide to the Committees upon delivery, a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking, within 30 days after the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria 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 the rulemaking by the Department, the General Assembly and the Governor.

TERESA D. MILLER,
Secretary

Fiscal Note: 14-550. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 55. HUMAN SERVICES****PART II. PUBLIC ASSISTANCE MANUAL****Subpart B. INTAKE AND REDETERMINATION****CHAPTER 123. DEFINITIONS****TANF/GA INTAKE AND REDETERMINATION
DEFINITIONS****§ 123.22. Definitions.**

The following words and terms, when used in this chapter and Chapters 125, 133 and 141 (relating to application process; redetermining eligibility; and general eligibility provisions), have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Application interview—A [**face-to-face**] **personal** interview between an applicant and an eligibility worker [**which is scheduled within 13-calendar days after receipt of an application. The purpose of the application interview is**], to gather and record information and to secure verification needed to establish eligibility.

* * * * *

Monthly assistance payment—The amount of money issued monthly that is based on the family size allowance plus, if applicable, a special need allowance, reduced by the net income of the budget group.

Personal interview—A meeting or discussion between an applicant or recipient and an eligibility worker, in person, by telephone or by other means approved by the Department.

Reapplication—A completed, signed form approved by the Department which is filed with the CAO by a recipient and used for a complete redetermination of continued eligibility of a budget group.

* * * * *

Screening interview—A [**face-to-face or telephone**] **personal** interview between the applicant and [**a CAO**] **an eligibility** worker which includes a review of the [**filed**] application [**form**] to assure that information necessary to determine eligibility is provided [**on the form**] prior to determining a person ineligible or prior to scheduling an application interview.

**CHAPTER 133. REDETERMINING ELIGIBILITY
REDETERMINING ELIGIBILITY PROVISIONS
FOR TANF/GA**

§ 133.23. Requirements.

* * * * *

(c) *Redetermination contacts.* [**Redetermination contacts with the client may be in the home or in the office, depending on the preference of the client. Office and home visits shall be scheduled with the client. It may not always be possible to plan a visit so that home visits to the client without notice may be occasionally necessary; for example, when substantiating information is required and urgent to determine the continued eligibility of the client. Home visits shall always be made in accord with the principle of the Department respecting the right of the client to privacy and personal dignity as set forth in § 121.1 (relating to policy)**] **The Department shall schedule and conduct a personal interview with the recipient.**

(d) *Controls for redeterminations.* To carry out the function of redetermining eligibility, a central control of necessary future actions is maintained to provide a method whereby reasonably predictable changes in the total caseload can be acted on within appropriate time limits.

[Pa.B. Doc. No. 20-1776. Filed for public inspection December 18, 2020, 9:00 a.m.]