

PROPOSED RULEMAKING

STATE BOARD OF OSTEOPATHIC MEDICINE

[49 PA. CODE CH. 25]

Child Abuse Reporting Requirements

The State Board of Osteopathic Medicine (Board) proposes to amend Chapter 25 to read as set forth in Annex A. Specifically, the Board proposes to amend §§ 25.1, 25.161, 25.163, 25.241—25.244, 25.246, 25.271, 25.301—25.304, 25.401, 25.411—25.416, 25.507, 25.509a, 25.603, 25.605, 25.704, 25.708, 25.803, 25.810, 25.903 and 25.909 and add §§ 25.417 and 25.418 (relating to child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process).

Effective Date

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

Statutory Authority

Section 16 of the Osteopathic Medical Practice Act (act) (63 P.S. § 271.16) 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 Board-regulated practitioners.

Background and Purpose

Since 2014, the General Assembly has made numerous amendments to the CPSL, including the requirement imposed by 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. Section 2 of Act 31 provided that these training requirements would apply to all persons applying for a license or applying for renewal of a license on or after January 1, 2015, and were implemented as of that date. These amendments are required to update the Board's existing regulations on the subject of child abuse reporting to comport to the numerous amendments made to the CPSL, and to incorporate the mandatory training requirements required by Act 31.

Description of the Proposed Amendments

In Subchapter A (relating to general provisions), the Board proposes to amend § 25.1 (relating to definitions) to update the definition of "board-regulated practitioner" to add "acupuncturists," "perfusionists," and "genetic counselors" to the list. The Board regulates acupuncturists under the Acupuncture Licensure Act (63 P.S. §§ 1801—1806.1), and thus an acupuncturist is a "board-regulated practitioner" subject to these regulations. Genetic counselors and perfusionists are regulated by the Board under sections 10.3 and 13.3 of the act (63 P.S. §§ 271.10c and 271.13c) which were added in 2011 and 2008, respectively, and are likewise "board-regulated practitioners." The Board recognizes that in so doing, the regulatory definition diverges from the statutory definition of "board-regulated practitioner," largely because the General Assembly has not updated the statutory definition to reflect recent additions. However, the Board finds it necessary for purposes of clarity to include all health

care practitioners that are regulated by the Board in the regulatory definition of "board-regulated practitioner." In Subchapter C (relating to physician assistant provisions), the Board proposes to amend §§ 25.161 and 25.163 (relating to criteria for licensure as a physician assistant; and approval and effect of licensure; biennial renewal of physician assistants; registration of supervising physicians) to incorporate the mandatory training requirements in section 6383(b)(3)(i) and (ii) of the CPSL. Similarly, the Board proposes to amend Subchapter G (relating to licensing, education and graduate training), specifically §§ 25.241—25.244 and 25.246, to incorporate the mandatory 3 hours of approved training in child abuse recognition and reporting for applicants for unrestricted physician licenses, boundary licenses, temporary licenses and short-term camp physician licenses. The Board also proposes to amend § 25.271 (relating to requirements for renewal) to incorporate the 2 hours of mandatory training in child abuse recognition and reporting as a portion of the 100 hours of continuing medical education required for osteopathic physicians. The Board also takes this opportunity to update the statutory authority pertaining to the malpractice insurance requirements under what is now the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.910).

The Board proposes to rename and amend Subchapter I (relating to registration and practice of acupuncturists) in recognition of the fact that the Board now licenses acupuncturists. First, the definition of "acupuncturist" in § 25.301 (relating to definitions) would be amended to refer to individuals licensed to practice acupuncture. Likewise, § 25.302 (relating to registration as an acupuncturist and as an acupuncture supervisor) would be renamed and amended to reflect the licensure of acupuncturists. Similarly, § 25.303 (relating to requirements for registration as an acupuncturist and an acupuncturist supervisor) is proposed to be amended to refer to licensure of acupuncturists and to incorporate the mandatory 3 hours of training in child abuse recognition and reporting required by section 6383(b)(3)(i) of the CPSL. Further, § 25.304 (relating to biennial registration requirements) is proposed to be amended to incorporate the 2 hours of continuing education in child abuse recognition and reporting required by section 6383(b)(3)(ii) of the CPSL.

The Board next proposes comprehensive amendments to the child abuse reporting requirements in Subchapter J (relating to child abuse reporting requirements). First, the Board proposes to amend § 25.401 (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 a definition for the term "mandated reporter" for ease of reference. The Board proposes to delete the definitions of "individual residing in the same home as the child" and "serious physical injury" because they have been deleted from the CPSL. The Board also proposes to amend, where necessary throughout the proposal, the name of the Department of Public Welfare, as the name of that agency has changed to the Department of Human Services.

The Board proposes to amend § 25.411 (relating to suspected child abuse—mandated reporting requirements) to provide the general rule that all Board-regulated practitioners are considered mandated reporters, and to set forth the mandated reporting requirements and procedures as provided in sections 6311 and 6313 of the CPSL, as amended. The Department of Human Services has implemented an electronic reporting process for mandated reporters, and the Board finds it necessary to amend § 25.412 (relating to photographs, medical tests and X-rays of child subject to report) to set forth the requirement to submit these types of materials to the county children and youth social service agency within 48 hours of making an electronic report and to make all medical summaries or reports of the photographs, X-rays and medical tests available to law enforcement officials in the course of investigating cases under section 6340(a)(9) or (10) of the CPSL (relating to release of information in confidential reports).

The Board proposes amendments to § 25.413 (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 such a report to be made to the medical examiner of the county where the death occurred, or of the county where the injuries were sustained. Further, the Board proposes to amend § 25.414 (relating to immunity from liability) to incorporate amendments made to section 6318 of the CPSL (relating to immunity from liability); and § 25.415 (relating to confidentiality—waived) to incorporate the provisions of sections 6311.1 and 6313(e) of the CPSL (relating to privileged communications; and reporting procedure). Likewise, the Board proposes to amend § 25.416 (relating to noncompliance) to update the criminal penalties, which have been increased in recent years, for failure to make a report or referral required by the CPSL.

The Board proposes to add two sections setting forth the mandatory training requirements in section 6383(b)(3)(i) and (ii) of the CPSL. Section 25.417 (relating to child abuse recognition and reporting—mandatory training requirement) proposes to set forth the requirements that all individuals applying to the Board for an initial license are required to complete at least 3 hours of approved training in child abuse recognition and reporting; and that all licensees and certificate holders seeking renewal of a license or certificate complete at least 2 hours of continuing education in approved courses in child abuse recognition and reporting as a requirement of renewal. The Board also would provide notice that these 2 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. The Board also proposes to clarify that a license will not be issued or renewed unless the Bureau of Professional and Occupational Affairs (Bureau) has received an electronic report from an approved course provider documenting the attendance/participation by the applicant/licensee. The proposal would also clarify that for purposes of renewal, the course must be completed within the applicable biennial renewal period, and that if a licensee holds more than one license issued by the Board or holds a license from another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

This section proposes to also include a subsection setting forth 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 Public Welfare Code (now known as the Human Services 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 this training. Instead, section 6383(c) of the CPSL (which is in the Domestic Relations Code) 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 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 licensee 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 from the training requirement if the licensee “submits documentation acceptable to the licensing board that the licensee 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 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.

The Board also proposes to clarify the standards for granting an exemption under section 6383(b)(6) of the CPSL by explaining that the Board will not grant an exemption based solely upon proof that children are not a part of the applicant’s or licensee’s practice and that each request for an exemption will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances. The Board proposes subsection (d) to clarify that exemptions which are granted are applicable only for the biennial renewal period in which the exemption is requested. This subsection will also clarify the process for notifying an applicant or licensee of the Board’s decision to grant or deny the exemption.

The Board proposes to add § 25.418 (relating to child abuse recognition and reporting course approval process) to set forth the process developed by the Bureau, in conjunction with the Department of Human Services, for individuals, entities and organizations to apply for approval to deliver training required under Act 31. The Bureau has incorporated a requirement that to be approved to provide Act 31 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 licensee’s record with the Board at the time the course is completed. Then, at the time of renewal, the system verifies that the training was completed as required prior to renewing the license. Thus, the

Board will not renew a license unless an electronic report has been received from an approved course provider documenting the required attendance/participation in an approved course or the licensee has received an exemption from the mandatory training requirement.

The Board proposes amendments to Subchapter K (relating to respiratory therapists) to incorporate the mandatory child abuse training requirements in §§ 25.507 and 25.509a (relating to criteria for licensure as a respiratory therapist; and requirement of continuing education). Similarly, the Board proposes amendments to Subchapter L (relating to volunteer license) in §§ 25.603 and 25.605 (relating to applications; and biennial renewal). In Subchapter M (relating to athletic trainers), the Board proposes similar amendments to §§ 25.704 and 25.708 (relating to application for licensure; and renewal of license). The Board proposes to amend Subchapter N (relating to perfusionists), specifically §§ 25.803 and 25.810 (relating to application for perfusionist license; and continuing education for licensed perfusionist) to incorporate the mandatory training in child abuse recognition and reporting. Finally, the Board proposes to amend Subchapter O (relating to genetic counselors), specifically §§ 25.903 and 25.909 (relating to application for genetic counselor license; and continuing education for genetic counselors) to incorporate the mandated reporter training.

Fiscal Impact and Paperwork Requirements

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these proposed amendments. Most of the Board’s licensees are already required to complete mandatory continuing education, and as these 2 hours are incorporated in the existing requirement, there would be no increased burden. Only acupuncturists do not currently have continuing education requirements, therefore, the mandatory 2 hours in child abuse recognition and reporting would be an additional requirement for biennial renewal for that licensure classification. Additionally, all applicants for licensure are impacted by the costs associated with completing at least 3 hours of approved training in child abuse recognition and reporting. Because there are many low-cost and free options available to complete the training, the Board anticipates this impact to be minimal. Because approved Act 31 training providers are required to report attendance/participation electronically, there are no additional paperwork requirements imposed on licensees. In addition, the implementation of an electronic reporting system for mandatory 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(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 27, 2022, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. 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 shall 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 Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to the Regulatory Counsel for the Department of State, State Board of Osteopathic Medicine, P.O. Box 69523, Harrisburg, PA 17106-9523 or RA-STRegulatoryCounsel@pa.gov within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference 16A-5326 (Child Abuse Reporting Requirements) when submitting comments.

WILLIAM B. SWALLOW, DO,
Chairperson

Fiscal Note: 16A-5326. 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 25. STATE BOARD OF OSTEOPATHIC MEDICINE

Subchapter A. GENERAL PROVISIONS

§ 25.1. Definitions.

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

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Board-regulated practitioner—An osteopathic physician, physician assistant, respiratory therapist [**or licensed**], athletic trainer, **acupuncturist, perfusionist, genetic counselor** or an applicant for a license [**or certificate**] issued by the Board.

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Subchapter C. PHYSICIAN ASSISTANT PROVISIONS

LICENSURE OF PHYSICIAN ASSISTANTS AND REGISTRATION OF SUPERVISING PHYSICIANS

§ 25.161. Criteria for licensure as a physician assistant.

(a) The Board has approved as a proficiency examination the national certification examination on primary care developed by the NCCPA. The Board will maintain a current register of approved proficiency examinations. This register will list the full name of the examination, the organization giving the examination, the mailing address of the examination organization and the date the proficiency examination received Board approval. This register shall be available for public inspection.

(b) The clinical experience required by the Board is at present identical to the clinical experience required by the NCCPA for taking the NCCPA examination on primary

care. To qualify for an NCCPA proficiency examination, the applicant's employment history must be verified by the NCCPA in cooperation with the Board and must be evaluated by the NCCPA in relation to specific work criteria.

(c) The Board will approve for licensure as a physician assistant an applicant who:

- (1) Is of good moral character and reputation.
- (2) Has graduated from a physician assistant training program certified by the Board.
- (3) Has submitted a completed application detailing his education and work experience, together with the required fee.
- (4) Has passed a proficiency examination approved by the Board.

(5) Has completed at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(d) The physician assistant may amend information regarding his education and work experience submitted under the requirements of subsection (c)(3), by submitting to the Board in writing additional detailed information. No additional fee will be required. The file for each physician assistant will be reviewed by the Board to determine whether the physician assistant possesses the necessary skills to perform the tasks that a physician, applying for registration to supervise and utilize the physician assistant, intends to delegate to him as set forth in the protocol contained in the physician's application for registration.

(e) A person who has been licensed as a physician assistant by the State Board of Medicine shall make a separate application to the Board if he intends to provide physician assistant services for a physician licensed to practice osteopathic medicine and surgery without restriction.

(f) An application for licensure as a physician assistant by the Board may be obtained by writing to the Harrisburg office of the Board.

§ 25.163. Approval and effect of licensure; biennial renewal of physician assistants; registration of supervising physicians.

(a) Upon approval of an application for licensure as a physician assistant, the Board will issue a physician assistant license which contains the licensee's name, license number and the date of issuance, after payment of the fee required under § 25.231 (relating to schedule of fees).

(b) A physician assistant's right to continue practicing is conditioned upon biennial renewal and the payment of the fee required under § 25.231. Upon receipt of the form provided to the physician assistant by the Board in advance of the renewal period and the required fee, the Board will issue the physician assistant a biennial renewal certificate containing the licensee's name, license number and the beginning and ending dates of the biennial renewal period.

(c) To be eligible for renewal of a physician assistant license, the physician assistant shall complete continuing medical education as required by NCCPA, **including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 25.417(b) (relating to child abuse recognition and**

reporting—mandatory training requirement) and maintain National certification by completing current certification and recertification mechanisms available to the profession, identified on NCCPA's web site and recognized by the Board. The Board recognizes certification through NCCPA and its successor organizations and certification through any other National organization for which the Board publishes recognition of the organization's certification of physician assistants on the Board's web site.

(d) Upon approval of an application for registration as a supervising physician, the Board will issue a supervising physician registration certificate which contains the name of the supervising physician, his registration number and the name of the physician assistant that he is authorized to supervise under that specific registration. The registration is not subject to renewal. When the physician submits a request to modify a protocol with respect to a physician assistant he is already registered to utilize, no new registration certificate will be issued; however, the physician will receive a letter from the Board confirming its approval of the expanded utilization.

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Subchapter G. LICENSING, EDUCATION AND GRADUATE TRAINING

LICENSURE REQUIREMENTS

§ 25.241. Unrestricted license by examination.

To secure an unrestricted license for the practice of osteopathic medicine and surgery by examination, the applicant shall meet the following educational and professional requirements. The applicant shall have:

- (1) Graduated from an approved osteopathic medical college.
- (2) Received passing scores on Parts I, II and III of the National Board Examination. The applicant shall pay the required examination fee at the direction of the National Board.
- (3) Received a passing score on the practical examination in osteopathic diagnosis and manipulative therapy developed and administered by the Board or a designated professional testing organization.

(4) Successfully completed an approved internship.

(5) Complied with the malpractice insurance requirements of the [**Health Care Services Malpractice Act (40 P.S. §§ 1301.101—1301.1006)**] **Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.910)** and regulations thereunder.

(5.1) Completed at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(6) Completed an application obtained from the Board detailing education and experience and indicating compliance with the applicable provisions of the act and this chapter, submitted with the required fees.

§ 25.242. Unrestricted license by endorsement.

To secure an unrestricted license for the practice of osteopathic medicine and surgery by endorsement, the applicant shall meet the following educational and professional requirements. The applicant shall have:

(1) Provided evidence of a valid license in good standing to practice osteopathic medicine and surgery in another state or territory of the United States or Canada whose standards are substantially equivalent to those established by the Board and who reciprocate with the Commonwealth.

(2) Graduated from an approved osteopathic medical college.

(3) Received a passing score on the National Board Examination, FLEX or a written state or territorial examination developed by the NBOME or otherwise acceptable to the Board.

(4) Received a passing score on the practical examination in osteopathic diagnosis and manipulative therapy developed and administered by the Board or a designated professional testing organization.

(5) Successfully completed an approved internship.

(6) Complied with the malpractice insurance requirements of the [**Health Care Services Malpractice Act (40 P.S. §§ 1301.101—1301.1006)**] **Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.910)** and regulations thereunder.

(6.1) Completed at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(7) Completed an application obtained from the Board detailing education and experience and indicating compliance with the applicable provisions of the act and this chapter, submitted with the required fees.

§ 25.243. Boundary license.

(a) A licensed osteopathic physician residing in or maintaining an office of practice in an adjoining state near the boundary line between that state and this Commonwealth whose practice extends into this Commonwealth shall apply for the privilege, in the form of a boundary license, to practice osteopathic medicine and surgery in this Commonwealth.

(b) Specific requirements for boundary licensure are as follows. The applicant shall:

(1) Possess a valid, current and unrestricted license in the physician's state of residence and primary practice. The physician shall arrange for certification of licensure to be transmitted to the Board by the authorized licensing body of that state.

(2) Comply with the malpractice insurance requirements of the [**Health Care Services Malpractice Act (40 P.S. §§ 1301.101—1301.1006)**] **Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.910)** and regulations thereunder.

(2.1) Complete at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(3) Submit an application obtained from the Board, together with the required fee.

(c) The issuance of a boundary license depends upon whether the adjoining state of licensure reciprocates by extending similar privileges to licensees of the Commonwealth.

(d) A record of persons granted a boundary license will be maintained in the office of the Board.

(e) Since a boundary license is invalidated by practice location changes, a person granted a boundary license shall inform the Board within 10 days of changes in residence or office of practice location which affect the maintenance of the license.

§ 25.244. Temporary license.

(a) A temporary license is required of an osteopathic medical college graduate for permission to participate in an approved graduate osteopathic or medical training program in this Commonwealth.

(b) Specific requirements for temporary training licensure are as follows. The applicant shall have:

(1) Graduated from an approved osteopathic medical college.

(1.1) Completed at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(2) Submitted an application obtained from the Board, together with the required fee.

(c) The temporary training license permits the graduate to train only within the complex of the hospital and its affiliates where the graduate is engaged in an approved graduate osteopathic or medical training program.

(d) The temporary training license is valid for 1 year, after which it shall be surrendered to the Board. The Board may extend the validity of the temporary training license within its discretion.

§ 25.246. Short-term camp physician license.

(a) A short-term license valid for a period not exceeding 3 months may be granted by the Board to an osteopathic physician licensed in good standing in another state or Canada who intends to practice osteopathic medicine and surgery in camps in this Commonwealth.

(b) Specific requirements for short-term camp licensure are as follows. The applicant shall:

(1) Possess a valid, current and unrestricted license in another state or territory of the United States or Canada. The physician shall arrange for certification of licensure to be transmitted to the Board by the authorized licensing body of the other jurisdiction.

(2) Comply with the malpractice insurance requirements of the [**Health Care Services Malpractice Act (40 P.S. §§ 1301.101—1301.1006)**] **Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. §§ 1303.101—1303.910)** and regulations thereunder.

(2.1) Complete at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(3) Submit an application obtained from the Board, together with the required fee.

LICENSURE RENEWAL AND CONTINUING EDUCATION

§ 25.271. Requirements for renewal.

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(b) A penalty fee as specified by § 25.231 (relating to schedule of fees) will be imposed on a licensee who continued to practice without having timely renewed his license. The licensee may also be subject to other criminal, civil or administrative penalties.

(c) Proof of completion of 100 credit hours of continuing medical education, **including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 25.417(b) (relating to child abuse recognition and reporting—mandatory training requirement)**, in the preceding biennial period will be required for licensure renewal for osteopathic physicians.

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Subchapter I. [**REGISTRATION**] **LICENSURE** AND PRACTICE OF ACUPUNCTURISTS

§ 25.301. Definitions.

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Acupuncturist—An individual [**registered**] **licensed** to practice acupuncture by the Board.

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§ 25.302. [**Registration**] **Licensure** as an acupuncturist and **registration** as an acupuncturist supervisor.

(a) An osteopathic physician who intends to practice acupuncture and other individuals who intend to practice acupuncture at the direction and under the supervision of an osteopathic physician shall [**register with**] **be licensed by** the Board as an acupuncturist.

(b) Only an osteopathic physician registered as an acupuncturist supervisor may delegate the performance of acupuncture services to an acupuncturist. An acupuncturist who is not an osteopathic physician may only perform acupuncture services under the direction and supervision of an acupuncturist supervisor, unless otherwise authorized by statute.

§ 25.303. Requirements for [**registration**] **licensure** as an acupuncturist and **registration as** an acupuncturist supervisor.

(a) The Board will register as an acupuncturist a nonosteopathic physician who satisfies the following requirements:

(1) Has successfully completed an acupuncture program which includes a course in needle sterilization techniques.

(i) If the acupuncture education program is taken within the United States, the applicant shall complete 2 academic years of acupuncture training and shall complete 2 academic years of a college level educational program.

(ii) If the educational program is taken outside of the United States, an applicant shall graduate from a college with a program of study including Oriental medicine and document 300 class hours of study in acupuncture training.

(2) Has obtained a passing grade on an acupuncture examination or has been certified by NCCA by credential review. The Board accepts the passing grade on the certifying examination of the NCCA as determined by the NCCA, and accepts a passing grade on any state's acupuncture examination taken prior to January 1, 1987, as determined by the licensing or registering authority in the other state. If the examination was not taken in English, but is otherwise acceptable and a passing score

was secured, the Board will accept the examination result if the applicant has also secured a **passing** score [**of 550**] on the test of English as a Foreign Language [**(TOEFL)**] **(TOEFL®)**.

(2.1) Completes at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(3) Submits an application [**to register**] **for licensure** as an acupuncturist accompanied by the required fee.

(b) The Board will [**register**] **license** as an acupuncturist an osteopathic physician who satisfies the following requirements:

(1) Has successfully completed 200 hours of training in acupuncture medical programs including examinations required by those programs or has engaged in clinical acupuncture practice for at least 3 years prior to January 1, 1987, documented to the satisfaction of the Board.

(1.1) Completes at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(2) Submits an application [**to register**] **for licensure** as an acupuncturist accompanied by the required fee.

(c) The Board will register as an acupuncturist supervisor an osteopathic physician who satisfies the following requirements:

(1) Possesses a license without restriction.

(2) Submits an application to register as an acupuncturist supervisor accompanied by the required fee.

§ 25.304. Biennial registration requirements.

(a) An acupuncturist shall register biennially, **complete at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 25.417(b) (relating to child abuse recognition and reporting—mandatory training requirement)** and submit the appropriate registration fee to engage in the practice of acupuncture for the biennial period.

(b) There is no biennial registration requirement for an acupuncturist supervisor.

Subchapter J. CHILD ABUSE REPORTING REQUIREMENTS

GENERAL

§ 25.401. Definitions.

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

Bodily injury—Impairment of physical condition or substantial pain.

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 these 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 the 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 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 chapter, the term includes Board-regulated practitioners.

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. The following apply:

(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) An individual 14 years of age or older who is a person responsible for the child's welfare or who has 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 responsible for the child's welfare who is 18 years of age or older.

(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.

CHILD ABUSE REPORTING REQUIREMENTS

§ 25.411. Suspected child abuse—mandated reporting requirements.

(a) *General rule.*

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), [osteopathic physicians, physician assistants or certified respiratory care therapists 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 Board-regulated practitioners 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:

(i) 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.

(ii) 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.

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

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

(2) Nothing in this subsection shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this subsection shall require the mandated reporter to take steps to identify the

person responsible for the child abuse, if unknown, for the mandated reporter to make a report of suspected child abuse.

(b) Staff members of public or private agencies, institutions and facilities. [Osteopathic physicians, physician assistants or certified respiratory care therapists 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 Board-regulated practitioner 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 Board-regulated practitioner 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 paragraph 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 child's parents [or] 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.

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

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

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

[An osteopathic physician, physician assistant or certified respiratory care therapist] A Board-regulated practitioner 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 § 25.411(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. Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6340(a)(9) or (10) (relating to release of information in confidential reports).

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

[An osteopathic physician, physician assistant or certified respiratory care therapist] A Board-

regulated practitioner 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.

§ 25.414. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) [an osteopathic physician, physician assistant or certified respiratory care therapist] a Board-regulated practitioner 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 [osteopathic physician's, physician assistant's or certified respiratory care therapist's] Board-regulated practitioner's actions. For the purpose of any civil or criminal proceeding, the good faith of the [osteopathic physician, physician assistant or certified respiratory care therapist] Board-regulated practitioner shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of [an osteopathic physician's, physician assistant's or certified respiratory care therapist'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] a Board-regulated practitioner's actions under §§ 25.411—25.413 (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).

§ 25.415. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 25.411—25.413 (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 § 25.213(c) (relating to medical records) and any other ethical principle or professional standard that might otherwise apply to [osteopathic physicians, physician assistants or certified respiratory care therapists] Board-regulated practitioners. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient do not apply to a situation involving child abuse and do not relieve the mandated reporter of the duty to make a report of suspected child abuse. Additionally, under 23 Pa.C.S. § 6313(e) (relating to reporting procedure), notwithstanding any other provision of law to the contrary, a mandated reporter who makes a report of suspected child abuse does not violate the Mental Health Procedures Act

(50 P.S. §§ 7101—7503), by releasing information necessary to complete the report.

§ 25.416. Noncompliance.

(a) *Disciplinary action.* [**An osteopathic physician, physician assistant or certified respiratory care therapist**] **A Board-regulated practitioner** who willfully fails to comply with the reporting requirements in §§ 25.411—25.413 (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 15(a)(6) or (b)(7) of the act (63 P.S. § 271.15(a)(6) or (b)(7)).

(b) *Criminal penalties.* [**Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), an osteopathic physician, physician assistant or certified respiratory care therapist who is required to report a case of suspected child abuse who willfully fails to do so commits summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.**] **Under 23 Pa.C.S. § 6319 (relating to penalties), a Board-regulated practitioner 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 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:

(i) The mandated reporter willfully fails to report.

(ii) The child abuse constitutes a felony of the first 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: Sections 25.417 and 25.418 are proposed to be added and are printed in regular type to enhance readability.)

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

(a) Except as provided in subsection (c), individuals applying to the Board for an initial license shall have

completed at least 3 hours of training in child abuse recognition and reporting requirements which have been approved by the Department of Human Services and the Bureau, as set forth in § 25.418 (relating to child abuse recognition and reporting course approval process). The applicant shall certify on the application that the applicant has either completed the required training or has been granted an exemption under subsection (c). The Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the applicant or the applicant has obtained an exemption under subsection (c).

(b) Except as provided in subsection (c), licensees seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, 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 § 25.418. The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course within the applicable biennial renewal period or the licensee has obtained an exemption under subsection (c). If a licensee holds more than one license issued by the Board, or holds a license issued by another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

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

(1) The applicant or licensee submits documentation demonstrating all of the following:

(i) The applicant or licensee has already completed child abuse recognition training as required under 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.

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

(2) The applicant or licensee submits documentation demonstrating all of the following:

(i) The applicant or licensee has already completed child abuse recognition training required under 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.

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

(3) The applicant or licensee submits documentation acceptable to the Board demonstrating why the applicant or licensee should not be subject to the training or continuing education requirement. The Board will not grant an exemption based solely upon proof that children are not a part of the applicant's or licensee's practice. Each request for an exemption under this paragraph will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances.

(d) Exemptions granted under subsection (c) are applicable only for the biennial renewal period for which the exemption is requested. If an exemption is granted, the Board will issue or renew the license, as applicable. If an exemption is denied, the Board will email the applicant or licensee a discrepancy notice notifying them of the need to either complete an approved course or, if warranted, to submit additional documentation in support of their request for an exemption.

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

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required 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-stcpsl_course_app@pa.gov.

(b) Submissions shall include the following:

(1) Contact information (mailing address, email 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 participants 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 individual, entity or organization 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.

Subchapter K. RESPIRATORY THERAPISTS

§ 25.507. Criteria for licensure as a respiratory therapist.

The Board will approve for licensure as a respiratory therapist an applicant who:

(1) Submits evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met one or more of the following criteria:

(i) Has graduated from a respiratory care program approved by the CoARC and passed the entry level credentialing examination as determined by the NBRC.

(ii) Holds a valid license, certificate or registration as a respiratory therapist in another state, territory or the District of Columbia which has been issued based on requirements substantially the same as those required by the Commonwealth, including the examination requirement.

(1.1) Has completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(2) Has paid the appropriate fee in a form acceptable to the Board.

§ 25.509a. Requirement of continuing education.

(a) An applicant for biennial renewal or reactivation of licensure is required to complete a minimum of 30 hours of continuing education as set forth in section 10.2(f)(2) of the act (63 P.S. § 271.10b(f)(2)) subject to the following:

(1) At least 10 continuing education hours shall be obtained through traditional continuing education such as classroom lecture, clinical presentation, real-time web-cast or other live sessions where a presenter is involved. For nontraditional continuing education such as pre-recorded presentations, Internet-based presentations and journal review programs, to qualify for credit, the provider shall make available documented verification of completion of the course or program.

(2) One hour must be completed in medical ethics, and 1 hour must be completed in patient safety. **In addition,**

at least 2 hours must be completed in approved courses in child abuse recognition and reporting in accordance with § 25.417(b) (relating to child abuse recognition and reporting—mandatory training requirement).

(3) Credit will not be given for continuing education in basic life support, including basic cardiac life support and cardiopulmonary resuscitation. In any given biennial renewal period a licensee may receive credit for no more than 8 continuing education hours in advanced life support, including advanced cardiac life support, neonatal advanced life support/neonatal resuscitation and pediatric advanced life support.

(4) A licensee will not receive continuing education credit for participating in a continuing education activity with objectives and content identical to those of another continuing education activity within the same biennial renewal period for which credit was granted.

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Subchapter L. VOLUNTEER LICENSE

§ 25.603. Applications.

An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide **or cause to be provided:**

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice exclusively:

- (i) Without personal remuneration for professional services.
- (ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(3) Evidence that the applicant has completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

§ 25.605. Biennial renewal.

A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license under § 25.271 (relating to requirements for renewal), **including at least 2 hours in approved courses in child abuse recognition and reporting in accordance with § 25.417(b) (relating to child abuse recognition and reporting—mandatory training requirement).**

(2) The applicant shall be exempt from § 25.231 (relating to schedule of fees) pertaining to the biennial renewal fee and shall be exempt from § 25.283 (relating to biennial renewal of license) with regard to the maintenance of liability insurance coverage under section [701 of the Health Care Services Malpractice Act (40 P.S. § 1301-701)] **711 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. § 1303.711) as provided in section 9 of the Volunteer Health Services Act (35 P.S. § 449.49).**

Subchapter M. ATHLETIC TRAINERS

§ 25.704. Application for licensure.

(a) The applicant shall submit **or cause to be submitted** the following on forms supplied by the Board:

(1) A completed application and the fee set forth in § 25.231 (relating to schedule of fees).

(2) Verification of professional education in athletic training in accordance with § 25.705 (relating to educational requirements).

(3) Documentation of passage of the National examination in accordance with § 25.706 (relating to examination requirement).

(3.1) Verification of having completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(4) Documentation of practice as an athletic trainer, if licensed or certified in another jurisdiction, and verification as to whether there has been disciplinary action taken in that jurisdiction.

(b) To qualify for licensure, an applicant shall be at least 20 years of age and may not be addicted to alcohol or hallucinogenic, narcotic or other drugs which tend to impair judgment or coordination.

§ 25.708. Renewal of license.

(a) A license issued under this subchapter shall be renewed biennially. An application form will be mailed to the most recent address of the licensee as it appears on the records of the Board. The licensee shall complete the renewal application and return it to the Board with a renewal fee before December 31 of the year in which the application was received. Licenses other than temporary licenses expire on December 31 of each even-numbered year. Upon receipt of an application and renewal fee, the Board will verify the accuracy of the application and issue to the applicant a license of renewal for the next biennial period.

(b) When a license is renewed after December 31 of an even-numbered year, a penalty fee of \$5 for each month or part of a month of practice beyond the renewal date will be charged in addition to the renewal fee, as set forth in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225).

(c) As a condition of renewal, a licensee shall comply with the continuing education requirements in § 25.711 (relating to continuing education), **including at least 2 hours in approved courses in child abuse recognition and reporting in accordance with § 25.417(b) (relating to child abuse recognition and reporting—mandatory training requirement).**

Subchapter N. PERFUSIONISTS

§ 25.803. Application for perfusionist license.

(a) An applicant for a license to practice as a perfusionist shall submit **or cause to be submitted**, on forms made available by the Board, a completed application, including the necessary supporting documents, for a license to practice as a perfusionist and pay the fee in § 25.231 (relating to schedule of fees) for application for a perfusionist license.

(b) The Board may issue a license to practice as a perfusionist to an applicant who meets all of the following requirements:

(1) Demonstrates that the applicant holds a current certification by a certifying agency approved by a Nationally-recognized accrediting agency approved by the Board.

(2) Demonstrates that the applicant has graduated from an accredited perfusion program approved by the Board.

(3) Demonstrates that the applicant is at least 18 years of age and of good moral character.

(4) Demonstrates that the applicant has obtained professional liability insurance as required under section 13.3(k) of the act (63 P.S. § 271.13c(k)).

(4.1) Has completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(5) Otherwise complies with this subchapter.

(c) The Board may deny an application for licensure as a perfusionist upon the grounds for disciplinary action in § 25.809 (relating to disciplinary action for licensed perfusionist).

§ 25.810. Continuing education for licensed perfusionist.

(a) *Credit hour requirements.* A licensed perfusionist shall satisfy the following continuing education credit hour requirements.

(1) As a condition for biennial registration, a licensee shall complete at least 30 hours of continuing education applicable to the practice of perfusion, including at least 10 hours of category I continuing education, **and at least 2 hours of approved training in child abuse recognition and reporting in accordance with § 25.417(b) (relating to child abuse recognition and reporting—mandatory training requirement).** A licensee is not required to complete continuing education during the biennium in which the licensee is first licensed.

(2) Except when reactivating an inactive license, when the Board has granted a waiver or when ordered by the Board, continuing education credits may be used to satisfy the continuing education credit hour requirements only for the biennial period in which the credits were earned. An hour of continuing education may not be used to satisfy the requirement of paragraph (1) for more than one biennium.

* * * * *

Subchapter O. GENETIC COUNSELORS

§ 25.903. Application for genetic counselor license.

(a) An applicant for a license to practice as a genetic counselor shall submit **or cause to be submitted**, on forms made available by the Board, a completed application for a license to practice as a genetic counselor, including the necessary supporting documents, and pay the application fee in § 25.231 (relating to schedule of fees).

(b) The Board may issue a license to practice as a genetic counselor to an applicant who demonstrates that the applicant:

(1) Is at least 21 years of age and of good moral character, as required under section 10.3(e)(1) and (2) of the act (63 P.S. § 271.10c(e)(1) and (2)).

(2) Has received a master’s degree or doctoral degree in human genetics or genetic counseling from an ABGC-

accredited or ABMG-accredited educational program or has met the requirements for certification by the ABGC or the ABMG. Proof of the degree, if applicable, shall be sent directly from the applicant’s education program and include an official transcript.

(3) Has passed the examination for certification as a genetic counselor by the ABGC or the ABMG or has passed the examination for certification as a Ph.D. medical geneticist by the ABMG. Proof that the applicant has passed the examination shall be sent directly from the ABGC or the ABMG and may include proof of current certification.

(3.1) Has completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 25.417(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(4) Has obtained professional liability insurance, or is exempt from the requirement to obtain professional liability insurance, as set forth in § 25.910 (relating to professional liability insurance coverage for genetic counselors).

(c) The Board may deny an application for licensure as a genetic counselor upon the grounds for disciplinary action in § 25.908 (relating to disciplinary action for applicants and genetic counselors).

§ 25.909. Continuing education for genetic counselors.

(a) *Credit hour requirements.* A genetic counselor shall satisfy the following continuing education credit hour requirements:

(1) As a condition for biennial renewal, a genetic counselor shall complete at least 30 hours of continuing education applicable to the practice of genetic counseling, **including at least 2 hours of approved training in child abuse recognition and reporting in accordance with § 25.417(b) (relating to child abuse recognition and reporting—mandatory training requirement);** credit will not be given for a course in office management or practice building. **[A] With the exception of the 2 hours in mandatory child abuse training,** a genetic counselor is not required to complete continuing education during the biennium in which the licensee was first licensed if licensure occurred within 3 years of completion of the degree.

(2) Except when reactivating an inactive license, when the Board has granted a waiver or when ordered by the Board, continuing education credits may be used to satisfy the continuing education credit hour requirements only for the biennial period in which the credits were earned. No hour of continuing education may be used to satisfy the requirement of paragraph (1) for more than one biennium.

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[Pa.B. Doc. No. 22-1606. Filed for public inspection October 21, 2022, 9:00 a.m.]

STATE BOARD OF PSYCHOLOGY

[49 PA. CODE CH. 41]

Child Abuse Reporting Requirements

The State Board of Psychology (Board) proposes to amend §§ 41.1, 41.11, 41.13, 41.30, 41.52, 41.59, 41.71—

41.76, and add §§ 41.77 and 41.78 (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

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

Statutory Authority

Section 3.2(2) of the Professional Psychologists Practice Act (act) (63 P.S. § 1203.2(2)) sets forth the Board's general rulemaking 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 of the Board.

Background and Purpose

Since 2014, the General Assembly has made numerous amendments to the CPSL, including the requirement imposed by 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 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 applying for renewal of a license, on or after January 1, 2015, and were implemented as of that date. These amendments are required to update the Board's existing regulations on the subject of child abuse reporting to comport to the numerous amendments made to the CPSL, and to incorporate the mandatory training requirements required by Act 31.

Description of the Proposed Amendments

The Board proposes to amend § 41.1 (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 has also added a definition for the term "mandated reporter" for ease of reference. The Board included psychology students, residents, interns, trainees and other unlicensed individuals with graduate training in psychology who are supervised by licensed psychologists in the definition of "mandated reporter" for two reasons: first, the list of mandated reporters in section 6311(a)(12) of the CPSL (relating to persons required to report suspected child abuse) includes an individual supervised or managed by a person listed in paragraph (1) (which includes a person licensed to practice in any health-related field under the jurisdiction of the Department of State) who has direct contact with children in the course of employment. Second, section 3(11) and (12) of the act (63 P.S. § 1203(11) and (12)), provides for the employment and supervision of these individuals "who shall perform their duties under the full direction, control and supervision of a licensed psychologist." For these reasons, the Board finds it prudent to include them in the definition of "mandated reporter" to provide notice to licensed psychologists and their employees and supervisees of their responsibilities under the CPSL. The Board is also proposing 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. Additionally, the Board proposes to amend, where necessary throughout this proposed rulemaking, the name of the Department of Public Welfare, as the name of that agency has changed to the Department of Human Services, including in the definition of "ChildLine" and in § 41.11 (relating to licenses).

The Board next proposes to amend § 41.13 (relating to reactivation of licensure) to incorporate the requirement that psychologists seeking to reactivate a license shall complete at least 2 hours of approved courses in child abuse recognition and reporting as required under section 6383(b)(3)(ii) of the CPSL. The Board proposes to amend § 41.30 (relating to qualifications and documentation necessary for licensure) to incorporate the requirement that applicants complete at least 3 hours of approved training in child abuse recognition and reporting as required under section 6383(b)(3)(i) of the CPSL. Similarly, the Board is proposing to amend § 41.52 (relating to persons licensed in other states) to require these applicants to complete the required training as a condition of licensure.

The Board is also proposing amendments to § 41.59 (relating to continuing education) to incorporate these 2 hours of courses in child abuse recognition and reporting as part of the required 30 contact hours of continuing education, without regard to whether the courses otherwise meet the Board's standards for acceptable courses, programs and sponsors. In addition, the Board proposes to permit licensees to complete additional hours in approved courses in child abuse recognition and reporting and will accept them as part of the 30 hours, but that they may not be carried over to the next biennium. Finally, the Board is proposing amendments to subsection (h), pertaining to exemptions and prorations, to clarify that these 2 hours in child abuse recognition and reporting are not waived during the first biennial renewal period after initial licensure, and that even those individuals who qualify for proration of their continuing education requirements are required to include at least 2 hours of approved courses in child abuse recognition and reporting in the prorated requirement.

The Board next proposes comprehensive amendments to the child abuse reporting requirements. The Board is proposing to amend § 41.71 (relating to suspected child abuse—mandated reporting requirements) to provide the general rule that all licensed psychologists and psychology students, residents, interns, trainees and other unlicensed individuals with graduate training in psychology who are supervised by licensed psychologists are considered mandated reporters, and to update the mandated reporting requirements and reporting procedures as set forth in sections 6311 and 6313 of the CPSL (relating to reporting procedure), as amended. The Department of Human Services has implemented an electronic reporting process for mandated reporters, and the Board finds it necessary to propose amendments to § 41.72 (relating to photographs, medical tests and X-rays of child subject to report) to set forth the requirement to submit these types of materials 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, and to include the requirement that medical summaries or reports of the photographs, X-rays and relevant medical tests be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6340(a)(9) or (10) (relating to release of information in confidential reports).

The Board is proposing to amend § 41.73 (relating to suspected death as a result of child abuse—mandated reporting requirements) 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 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 § 41.74 (relating to immunity from liability) to incorporate amendments made to section 6318 of the CPSL (relating to immunity from liability); and to amend § 41.75 (relating to confidentiality—waived) to incorporate the provisions of sections 6311.1 (relating to privileged communications) and § 6313(e) of the CPSL. Likewise, the Board proposes to amend § 41.76 (relating to noncompliance) to update the criminal penalties for failure to make a report or referral required by the CPSL, which have been increased in recent years.

The Board proposes to add two sections to incorporate the mandatory training requirements set forth in section 6383(b)(3)(i) and (ii) of the CPSL. Section 41.77 (relating to child abuse recognition and reporting—mandatory training requirement) would set forth the requirement that all individuals applying to the Board for an initial license are required to complete at least 3 hours of approved training in child abuse recognition and reporting; and that all licensees seeking renewal of a license are required to complete at least 2 hours of approved continuing education in child abuse recognition and reporting as a requirement of renewal. The Board would also provide notice that these 2 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. The Board is also clarifying that a license will not be issued or renewed unless the Bureau of Professional Occupational Affairs (Bureau) has received an electronic report from an approved course provider documenting the attendance/participation by the applicant/licensee. The proposal would also clarify that for purposes of renewal, the course must be completed within the applicable biennial renewal period, and that if a licensee holds a license from another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

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 Public Welfare Code (now known as the Human Services 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 this training. Instead, section 6383(c) of the CPSL (which is in the Domestic Relations Code) 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 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 psychologist 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 from the training requirement if the licensee “submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.” The Board believes that this section provides additional authority to the Board to determine that those licensees 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.

The Board also proposes to clarify the standards for granting an exemption under section 6383(b)(6) of the CPSL by explaining that the Board will not grant an exemption based solely upon proof that children are not a part of the applicant’s or licensee’s practice and that each request for an exemption will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances. The Board also proposes adding subsection (d) to clarify that exemptions which are granted are applicable only to the biennial renewal period in which the exemption is requested. This subsection will also clarify the process for notifying an applicant or licensee of the Board’s decision to grant or deny the exemption.

Finally, the Board proposes to add § 41.78 (relating to child abuse recognition and reporting course approval process) to set forth the administrative process developed by the 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 attendance and participation 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, at the time of renewal, the system verifies that the training was completed as required prior to renewing the license or certificate. Thus, the Board will not renew a license unless an electronic report has been received from an approved course provider documenting the required attendance and participation in an approved course or the licensee has received an exemption from the mandatory training requirement.

Fiscal Impact and Paperwork Requirements

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these proposed amendments. Because licensees 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 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. 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(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 27, 2022, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. 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 shall 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 Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to the Regulatory Counsel, Department of State, State Board of Psychology, P.O. Box 69523, Harrisburg, PA 17106-9523 or RA-STRegulatoryCounsel@pa.gov within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be identified as pertaining to proposed rulemaking 16A-6322 (Child Abuse Reporting Requirements).

CATHERINE S. SPAYD, PhD,
Chairperson

Fiscal Note: 16A-6322. 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 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:

* * * * *

Board—The State Board of Psychology of the Commonwealth.

Bodily injury—**Impairment of physical condition or substantial pain.**

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

CPA—Canadian Psychological Association.

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 these 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 oc-

curing, 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 meets one or more of the following criteria:

(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), where 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.

* * * * *

Immediate family member—Parent/guardian, child, sibling, spouse or other family member with whom the client/patient lives.

[**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.

Mandated reporter—A person who is required under 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 chapter, the term includes licensed psychologists and psychology students, residents, interns, trainees and other unlicensed individuals with graduate training in psychology who are supervised by licensed psychologists.

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

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.] An individual who has committed child abuse as defined in this section. The following apply:

(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) An individual 14 years of age or older who is a person responsible for the child's welfare or who has 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 to 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 responsible for the child's welfare who is 18 years of age or older.

(E) An individual 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.**]

* * * * *

Professional setting—A public or private agency or institution or a private practice where the applicant for licensure is supervised as a psychology trainee for the purpose of preparing for the independent practice of psychology and which provides an opportunity for contact with other disciplines and for work with a broad range of clients/patients. The agency, institution or private practice shall be responsible for the welfare of and the services to each client/patient of the applicant, for collecting fees for services and for providing easy and continuous access to the supervisor by both the applicant and the applicant's clients/patients.

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.

Psychologist—A person who holds a license issued under the act to engage in the practice of psychology.

* * * * *

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.

Sexual intimacies—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include, but are not limited to, sexual intercourse, nontherapeutic verbal communication or inappropriate nonverbal communications of a sexual or romantic nature, sexual invitations, soliciting a date from a client/patient, masturbating in the presence of a client/patient (or encouraging a client/patient to masturbate in the presence of the psychologist), exposure, kissing or hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

LICENSES

§ 41.11. Licenses.

(a) To be considered for admission to the examination provided in the act, an applicant shall first file with the Board or its designee:

* * * * *

(4) Child abuse history clearance completed by the Department of [Public Welfare] Human Services dated within 90 days of the application.

* * * * *

§ 41.13. Reactivation of licensure.

(a) A person whose psychology license is inactive or has lapsed because of failure to register biennially with the Board shall apply for reactivation of licensure on forms prescribed by the Board, shall pay the renewal fee for the current biennium, shall show compliance with the continuing education requirements (see § 41.59 (relating to continuing education)), including the mandatory training requirements in child abuse recognition and reporting in § 41.77(b) (relating to child abuse recognition and reporting—mandatory training requirements), and shall submit a notarized affidavit identifying periods of time during which the applicant for reactivation did not practice psychology in this Commonwealth or practiced in a setting where psychologists are exempt from licensure under section 3 of the act (63 P.S. § 1203). The late renewal fee described in subsection (b) and referenced in § 41.11(d) (relating to licenses) will not be imposed for periods of nonpractice or practice in an exempt setting.

* * * * *

QUALIFICATIONS

§ 41.30. Qualifications and documentation necessary for licensure.

(a) To qualify for licensure, an applicant shall complete the educational requirements in § 41.31 (relating to educational qualifications), the experience requirements in § 41.32 (relating to experience qualifications) and the examination requirements in § 41.41 (relating to examinations).

(b) An applicant for licensure shall submit, or cause to be submitted, an application and fee to the Board plus:

(1) In a sealed envelope, signed by the primary supervisors on the envelope flap, verification of post doctoral experience form, quarterly evaluations/progress reports, which include objectives, prepared during the course of supervision, and a letter describing the supervisory interactions and the supervisor's judgment of the applicant's potential as a psychologist.

(2) An updated criminal history records information report unless submitted to the Board within 90 days of the application for licensure under § 41.11(a)(3) (relating to licenses).

(3) An updated Child Abuse History Clearance unless submitted to the Board within 90 days of the application for licensure under § 41.11(a)(3).

(4) Evidence that the applicant has completed at least 3 hours of training in child abuse recognition and reporting in accordance with § 41.77(a) (relating to child abuse recognition and reporting—mandatory training requirement).

MISCELLANEOUS

§ 41.52. Persons licensed in other states.

(a) A person who holds a current license or certificate to practice psychology issued by a statutory board of psychologist examiners of a state with requirements for licensure which are deemed by the Board to be equivalent to those of the Commonwealth may be exempt from examination. Application for licensure under these circumstances shall be made on forms supplied by the Board and shall be accompanied by the initial application fee specified in § 41.12 (relating to fees). Applicants under this section shall be required to complete at least 3 hours of training in child abuse recognition and reporting in accordance with § 41.77(a) (relating to child abuse recognition and reporting—mandatory training requirement).

* * * * *

§ 41.59. Continuing education.

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(b) *Continuing education requirement for biennial renewal.* As a condition of biennial renewal, a psychologist shall have completed during the preceding biennium a minimum of 30 contact hours (3 CEUs) of continuing education in acceptable courses, programs or activities which shall include at least 3 contact hours per biennium in ethical issues. At least 2 of the required contact hours shall be completed in approved courses relating to child abuse recognition and reporting, in accordance with § 41.77(b) (relating to child abuse recognition and reporting—mandatory training requirement). The Board will accept child abuse courses approved in accordance with § 41.78 (relating to child abuse recognition and reporting course approval process) without regard to whether the course otherwise meets the Board's standards for acceptable courses, programs and sponsors in subsection (d). Up to 10 contact hours in excess of 30 from the immediately preceding biennium may be carried over from one biennium to the next. Excess hours in ethical issues may not be used to satisfy the ethics requirement for the succeeding biennium but may be credited toward the total requirement. Excess hours in child abuse recognition and reporting may be counted toward the total 30 contact hours in the biennium in which they are completed but may not be carried over.

* * * * *

(h) *Exemptions and prorations.*

(1) [The] With the exception of the 2 hours of mandatory training in child abuse recognition and reporting required under § 41.77(b), the Board will exempt from the continuing education requirement a psychologist who received a license within 2 years of the psychologist's first application for biennial renewal.

(2) A psychologist who is licensed under § 41.52 (relating to persons licensed in other states) shall comply with the continuing education requirement, including completion of at least 2 hours of mandatory training in child abuse recognition and reporting, but the psychologist's contact hours will be prorated on a quarterly basis from the date of licensure in this Commonwealth to the next biennial renewal date. Each quarter will consist of 3 months. Beginning with the quarter immediately following license in this Commonwealth, at least 3.75 contact hours (.375 CEU) shall be earned for each quarter.

* * * * *

CHILD ABUSE REPORTING REQUIREMENTS**§ 41.71. Suspected child abuse—mandated reporting requirements.***(a) General rule.*

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensed psychologists [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.] and psychology students, residents, interns, trainees and other unlicensed individuals with graduate training in psychology who are supervised by licensed psychologists 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:

(i) 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.

(ii) 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.

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

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

(2) Nothing in this subsection shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this subsection shall require the mandated reporter to take steps to identify the person responsible for the child abuse, if unknown, for the mandated reporter to make a report of suspected child abuse.

(b) Staff members of public or private agencies, institutions and facilities. [Psychologists who are staff members of a medical or other public or private institution, school, facility or agency, and 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 psychologist, the person in charge or the designated agent shall assume the responsibility and have the legal obliga-

tion to report or cause a report to be made in accordance with subsections (a), (c) and (d)] Whenever a mandated reporter 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, that mandated reporter 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 to the appropriate county agency within 48 hours after the oral report is made by telephone and must contain, at a minimum, the information required by the Department of Public Welfare in 55 Pa. Code § 3490.18 (relating to filing of a written report by a required reporter).]

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 (related 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 and electronic reports shall be made in the manner and on forms prescribed by the Department of [Public Welfare] Human Services. The following information shall be included in the written or electronic reports, if [available] known:

(1) The names and addresses of the child [and], the child's parents [or] 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**] **person making the report**, including [**the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner**] **actions taken under 23 Pa.C.S. §§ 6314—6317**.

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

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

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

A [**psychologist**] **mandated reporter** 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 § 41.71(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. **Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6340(a)(9) or (10) (relating to release of information in confidential reports).**

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

A [**psychologist**] **mandated reporter** 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.

§ 41.74. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a [**psychologist**] **mandated reporter** 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 [**psychologist's**] **mandated reporter's** actions. For the purpose of any civil or criminal proceeding, the good faith of the [**psychologist**] **mandated reporter** shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a **licensed** psychologist'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 §§ 41.71—41.73 (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).**

§ 41.75. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 41.71—41.73 (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 provisions of Ethical Principle 5 (relating to confidentiality) in § 41.61 (relating to Code of Ethics) and any other ethical principle or professional standard that might otherwise apply to psychologists. **Under 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient/client do not apply to a situation involving child abuse and do not relieve the mandated reporter of the duty to make a report of suspected child abuse. Additionally, under 23 Pa.C.S. § 6313(e) (relating to reporting procedure), notwithstanding any other provision of law to the contrary, a mandated reporter who makes a report of suspected child abuse does not violate the Mental Health Procedures Act (50 P.S. §§ 7101—7503) by releasing information necessary to complete the report.**

§ 41.76. Noncompliance.

(a) *Disciplinary action.* A **licensed** psychologist who willfully fails to comply with the reporting requirements in §§ 41.71—41.73 (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. § 1911).

(b) *Criminal penalties.* [**Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a psychologist who is required to report a case of suspected child abuse 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.**] **Under 23 Pa.C.S. § 6319 (relating to penalties), a mandated reporter 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 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 first 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 that 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.)

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

(a) Except as provided in subsection (c), individuals applying to the Board for initial licensure shall have completed at least 3 hours of training in child abuse recognition and reporting requirements which have been approved by the Department of Human Services and the Bureau, as set forth in § 41.78 (relating to child abuse recognition and reporting course approval process). The applicant shall certify on the application that the applicant has either completed the required training or has been granted an exemption under subsection (c). The Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the applicant or the applicant has obtained an exemption under subsection (c).

(b) Except as provided in subsection (c), psychologists seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, 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 § 41.78. The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting attendance/participation by the licensee in an approved course within the applicable biennial renewal period or the licensee has obtained an exemption under subsection (c). If a licensee holds a license issued by another licensing board within the Bureau that requires mandatory training in child

abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

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

(1) The applicant or licensee submits documentation demonstrating all of the following:

(i) The applicant or licensee 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.

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

(2) The applicant or licensee submits documentation demonstrating all of the following:

(i) The applicant or licensee has already completed child abuse recognition training required by 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.

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

(3) The applicant or licensee submits documentation acceptable to the Board demonstrating why the applicant or licensee should not be subject to the training or continuing education requirement. The Board will not grant an exemption based solely upon proof that children are not a part of the applicant's or licensee's practice. Each request for an exemption under this paragraph will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances.

(d) Exemptions granted under subsection (c) are applicable only for the biennial renewal period for which the exemption is requested. If an exemption is granted, the Board will issue or renew the license, as applicable. If an exemption is denied, the Board will email the applicant or licensee a discrepancy notice notifying them of the need to either complete an approved course or, if warranted, to submit additional documentation in support of their request for an exemption.

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

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required 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-stcpsl_course_app@pa.gov.

(b) Submissions shall include all of 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) 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 and 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 attendance and participation 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. 22-1607. Filed for public inspection October 21, 2022, 9:00 a.m.]

STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE

[49 PA. CODE CH. 42]

Child Abuse Reporting Requirements

The State Board of Occupational Therapy Education and Licensure (Board) proposes to amend §§ 42.13—42.16, 42.41—42.47 and 42.53 and add §§ 42.48 and 42.49 (relating to child abuse recognition and reporting—mandatory training requirements; and child abuse recognition and reporting course approval process) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 5(b) of the Occupational Therapy Practice Act (act) (63 P.S. § 1505(b)) sets forth the Board's general rulemaking 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 of the Board.

Background and Purpose

Since 2014, the General Assembly has made numerous amendments to the CPSL, including the addition of the requirement imposed by 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 who are considered "mandated reporters" under the CPSL. Section 2 of Act 31 provided that these training requirements would apply to persons applying for a license, or applying for renewal of a license, on or after January 1, 2015, and were implemented as of that date. This proposed rulemaking is required to update the Board's existing regulations on the subject of child abuse reporting to comport to the numerous amendments made to the CPSL, and to incorporate the mandatory training requirements required by Act 31.

Description of the Proposed Amendments

The Board proposes to amend §§ 42.13—42.15 (relating to application for licensure; foreign-educated applicants; and application for temporary license) to incorporate the requirement for all applicants to complete, as a condition of licensure, 3 hours of training in child abuse recognition and reporting as required by Act 31. Similarly, the Board proposes to amend §§ 42.16 and 42.53 (relating to biennial renewal; inactive status; failure to renew; and continued competency requirements) to set forth the requirement that licensees applying for biennial renewal or reactivation complete at least 2 hours of continuing education in child abuse recognition and reporting as a condition of renewal or reactivation.

The Board is also proposing comprehensive amendments to the Board's existing child abuse reporting requirements to comport to the amendments to the CPSL. The Board proposes to amend § 42.41 (relating to definitions relating to child abuse reporting requirements) 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 has also added a definition for the terms “Bureau” and “mandated reporter” for ease of reference. The Board proposes to delete the definitions of “individual residing in the same home as the child” and “serious physical injury” because they have been deleted from the CPSL. The Board also proposes to amend, where necessary throughout the proposal, the name of the Department of Public Welfare, as the name of that agency has changed to the Department of Human Services.

The Board is proposing to amend § 42.42 (relating to suspected child abuse—mandated reporting requirements) to provide the general rule that all licensees of the Board are considered mandated reporters, and to set forth the mandated reporting requirements and reporting procedures as set forth in sections 6311 and 6313 of the CPSL (relating to persons required to report suspected child abuse; and reporting procedure), as amended. The Department of Human Services has implemented an electronic reporting process for mandated reporters, and the Board finds it necessary to amend § 42.43 (relating to photographs, medical tests and X-rays of child subject to report) to set forth the requirement to submit these types of materials 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) and to make all medical summaries or reports of the photographs, X-rays and medical tests available to law enforcement officials in the course of investigating cases under section 6340(a)(9) or (10) of the CPSL (relating to release of information in confidential reports).

The Board is proposing to amend § 42.44 (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 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 § 42.45 (relating to immunity from liability) to incorporate amendments made to section 6318 of the CPSL (relating to immunity from liability); and to amend § 42.46 (relating to confidentiality—waived) to incorporate the provisions of section 6311.1 of the CPSL (relating to privileged communications). Likewise, the Board is proposing to amend § 42.47 (relating to noncompliance) to update the criminal penalties in section 6319 of the CPSL (relating to penalties) for failure to make a report or referral required by the CPSL.

The Board proposes to add two sections setting forth the mandatory training requirements in section 6383(b)(3)(i) and (ii) of the CPSL. Section 42.48 (relating to child abuse recognition and reporting—mandatory training requirement) is proposed to set forth the requirements that all individuals applying for an initial license are required to complete 3 hours of approved training in child abuse recognition and reporting and that all licensees seeking renewal of a license are required to complete at least 2 hours of continuing education in child abuse recognition and reporting as a requirement of renewal. The Board also proposes to provide notice that these 2 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)(2)(iii) of the CPSL. The Board is also clarifying that a license will not be issued or renewed unless the Bureau of Professional and Occupational Affairs (Bureau) has received an electronic report from an approved course provider documenting the attendance/participation by the applicant/licensee. The proposal also clarifies that for purposes of renewal, the course must be completed within the applicable biennial renewal period, and that if a licensee holds more than one license issued by the Board or holds a license from another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

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 under the Human Services Code (62 P.S. §§ 101—1503) (formerly known as the Public Welfare Code), and the training was approved by the Department. However, the Department has confirmed that there is no provision in the Human Services Code that requires this training. Instead, section 6383(c) of the CPSL sets forth the requirement that certain individuals and entities regulated by the Department complete mandated reporter training. Therefore, the Board believes it is appropriate to include an exemption for a Board-regulated practitioner who has already completed comparable training in child abuse recognition and reporting required by the Department under section 6383(c) of the CPSL. For example, if an occupational therapist happened to be a foster parent and was, therefore, required to complete the training under section 6383(c) of the CPSL, there would be no need to repeat the training as a condition of licensure or license renewal under section 6383(b) of the CPSL. In addition, section 6383(b)(6) of the CPSL permits the Board to exempt a licensee from the training requirement “if the licensee submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.” The Board believes that this section also provides the authority of the Board to determine that those licensees who are required to complete comparable training under section 6383(c) of the CPSL should be exempt from the training requirement under section 6383(b) of the CPSL, provided they submit acceptable documentation to the Board evidencing completion of comparable training.

The Board also proposes to clarify the standards for granting an exemption under section 6383(b)(6) of the CPSL by explaining that the Board will not grant an exemption based solely upon proof that children are not a part of the applicant’s or licensee’s practice and that each request for an exemption will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances. The Board proposes to add subsection (d) to clarify that exemptions which are granted are applicable only for the biennial renewal period in which the exemption is requested. This subsection will also clarify the process for notifying an applicant or licensee of the Board’s decision to grant or deny the exemption.

Finally, the Board proposes to add § 42.49 (relating to child abuse recognition and reporting course approval process) to set forth the process developed by the Bureau, in conjunction with the Department of Human Services, for individuals, entities and organizations to apply for approval to deliver training required under Act 31. The Bureau has incorporated a requirement that to be approved to provide Act 31 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 licensee's record with the Board at the time the course is completed.

Fiscal Impact and Paperwork Requirements

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these proposed amendments. Because licensees are already required to complete mandatory continued competency requirements, and these 2 hours in child abuse recognition and reporting are incorporated in the existing requirement, there would not be an increased burden. Only applicants for licensure 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 participation/attendance electronically, there are no additional paperwork requirements imposed on licensees. 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(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 27, 2022, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. 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 shall 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 Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to the Regulatory Counsel, State Board of Occupational Therapy Education and Licensure, P.O. Box 69523, Harrisburg, PA 17106-5923 or RA-STRegulatoryCounsel@pa.gov within 30 days following publication of this proposed rulemaking in the *Penn-*

sylvania Bulletin. Reference No. 16A-679 (child abuse reporting requirements) when submitting comments.

KERRI L. HAMPLE,
Chairperson

Fiscal Note: 16A-679. 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 42. STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE

LICENSURE

§ 42.13. Application for licensure.

(a) To apply for licensure, an applicant shall pay the required fee and submit or cause to be submitted evidence satisfactory to the Board, on forms provided by the Board, that the applicant meets the following criteria:

* * * * *

(4) Has passed the licensure examination or has qualified for a waiver of the licensure examination under § 42.12 (relating to waiver of licensure examination).

(5) Has completed 3 hours of approved training in child abuse recognition and reporting in accordance with § 42.48 (relating to child abuse recognition and reporting—mandatory training requirement).

(b) In addition to the requirements in subsection (a), an applicant for an occupational therapist license shall submit one of the following:

(1) Proof that the applicant has professional liability insurance as set forth in § 42.61 (relating to professional liability insurance requirement).

* * * * *

§ 42.14. Foreign-educated applicants.

(a) To apply for licensure, the foreign-educated applicant shall, before examination, submit or cause to be submitted evidence to the Board, on forms provided by the Board, that the applicant meets the following requirements:

(1) Is of good moral character.

(2) Has completed educational requirements substantially equal to § 42.13(2) (relating to application for licensure). The Board will accept a credentials evaluation done by the NBCOT as proof that the foreign-educated applicant has completed the educational requirements.

(3) Has completed 3 hours of approved training in child abuse recognition and reporting in accordance with § 42.48 (relating to child abuse recognition and reporting—mandatory training requirement).

(b) The foreign-educated applicant may be licensed by the Board if the applicant has complied with subsection (a) and has met one of the following criteria:

- (1) Passed the licensure examination.
- (2) Qualified for a waiver of the licensure examination under § 42.12 (relating to waiver of licensure examination).

* * * * *

§ 42.15. Application for temporary license.

* * * * *

(d) In addition to the requirements in subsection (a) or (c), an applicant for a temporary license as an occupational therapist shall submit one of the following:

- (1) Proof that the applicant has professional liability insurance as set forth in § 42.61 (relating to professional liability insurance requirement).
- (2) A letter from the applicant’s insurance carrier indicating that the applicant will be covered against professional liability in the amount specified in § 42.61(a) upon the issuance of the applicant’s temporary license.
- (3) A certification from the applicant indicating that the applicant will be covered by an employer against professional liability in the amount specified in § 42.61(a) effective upon the beginning of employment, provided that the applicant does not practice occupational therapy prior to the beginning of employment.

(e) In addition to the requirements in subsection (a) or (c), an applicant for a temporary license as an occupational therapist shall complete, as a condition of licensure, 3 hours of approved training in child abuse recognition and reporting in accordance with § 42.48 (relating to child abuse recognition and reporting—mandatory training requirement).

§ 42.16. Biennial renewal; inactive status; failure to renew.

* * * * *

(c) To retain the right to engage in practice, the licensee shall renew the licensee’s license biennially as follows:

- (1) An occupational therapist shall complete the biennial renewal application, pay the required fee, certify completion of the continued competence requirement as specified in § 42.53 (relating to continued competency requirements), submit or cause to be submitted documentation verifying the completion of at least 2 hours of approved continuing education in child abuse recognition and reporting in accordance with § 42.48(b) (relating to child abuse recognition and reporting—mandatory training requirement) and certify maintenance of the required professional liability insurance coverage as specified in § 42.61 (relating to professional liability insurance requirement) which must include the insurance company name and policy number, as applicable.
- (2) An occupational therapy assistant shall complete the biennial renewal application, pay the required fee [and], certify completion of the continued competence requirement as specified in § 42.53 and submit or cause to be submitted documentation verifying the completion of at least 2 hours of approved continuing education in child abuse recognition and reporting in accordance with § 42.48(b) (relating to child abuse recognition and reporting—mandatory training requirement).

* * * * *

(g) A licensee who is applying to return to active status is required to pay fees which are due and submit or cause to be submitted all of the following:

- (1) A sworn statement stating the period of time during which the licensee was not engaged in practice in this Commonwealth.
- (2) A resume of professional activities since the most recent licensure.
- (3) A letter of good standing from another state or territory where the licensee is currently licensed or registered to practice, if applicable.
- (4) Proof of professional liability insurance coverage as set forth in § 42.61 if applying to reactivate an occupational therapist license.

(5) Verification of completion of at least 2 hours of approved continuing education in child abuse recognition and reporting in accordance with § 42.48(b) (relating to child abuse recognition and reporting—mandatory training requirement).

(h) The applicant for licensure renewal will not be assessed a fee or penalty for preceding biennial periods in which the applicant did not engage in practice in this Commonwealth.

* * * * *

CHILD ABUSE REPORTING REQUIREMENTS

§ 42.41. Definitions relating to child abuse reporting requirements.

The following words and terms, when used in this section and §§ 42.42—[42.47] 42.49 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

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 these 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 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 chapter, the term includes licensed occupational therapists and occupational therapy 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. The following apply:

(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) An individual 14 years of age or older who is a person responsible for the child's welfare or who has 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 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 to 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 responsible for the child's welfare who is 18 years of age or older.

(E) An individual 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, men-

tal 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.**

§ 42.42. Suspected child abuse—mandated reporting requirements.

(a) *General rule.*

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensees [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 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.] of the Board are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the licensee has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(i) 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.

(ii) 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.

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

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

(2) Nothing in this subsection shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this subsection shall require the mandated reporter to take steps to identify the person responsible for the child abuse, if unknown, in order for the mandated reporter to make a report of suspected child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* [Licensees 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 licensee, 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 licensee 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, that licensee 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 licensee 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 (related 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 or electronic reports, if [available] known:

(1) The names and addresses of the child [and], the child's parents [or] 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 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] person making the report, including [the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner] actions taken under 23 Pa.C.S. §§ 6314—6317.

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

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

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

A licensee 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 § 42.42(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. **Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6340(a)(9) or (10) (relating to release of information in confidential reports).**

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

A licensee 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.

§ 42.45. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), a licensee 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 licensee's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensee shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensee'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 §§ 42.42—42.44 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests

and X-rays of a child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

§ 42.46. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 42.42—42.44 (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 provisions in § 42.24(1)(iv) (relating to code of ethics) 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/client 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.**

§ 42.47. Noncompliance.

(a) *Disciplinary action.* A licensee who willfully fails to comply with the reporting requirements in §§ 42.42—42.44 (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 16 of the act (63 P.S. § 1516).

(b) *Criminal penalties.* [Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a licensee who is required to report a case of suspected child abuse 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.] Under 23 Pa.C.S. § 6319 (relating to penalties), a licensee 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 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 first 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.)

§ 42.48. Child abuse recognition and reporting—mandatory training requirements.

(a) Except as provided in subsection (c), individuals applying to the Board for a license 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 and the Bureau, as set forth in § 42.49 (relating to child abuse recognition and reporting course approval process). The applicant shall certify on the application that the applicant has either completed the required training or has been granted an exemption under subsection (c). The Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the applicant or the applicant has obtained an exemption under subsection (c).

(b) Except as provided in subsection (c), licensees seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, 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 § 42.49. The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course within the applicable biennial renewal period or the licensee has obtained an exemption under subsection (c). If a licensee holds a license issued by another licensing Board within the Bureau that also requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

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

(1) The applicant or licensee submits documentation demonstrating all of the following:

(i) The applicant or licensee 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.

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

(2) The applicant or licensee submits documentation demonstrating all of the following:

(i) The applicant or licensee has already completed child abuse recognition training required by 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.

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

(3) The applicant or licensee submits documentation acceptable to the Board demonstrating why the applicant or licensee should not be subject to the training or continuing education requirement. The Board will not grant an exemption based solely upon proof that children are not a part of the applicant's or licensee's practice. Each request for an exemption under this paragraph will be considered on a case-by-case basis. The Board may grant the exemption if it finds that the completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances.

(d) Exemptions granted under subsection (c) are applicable only for the biennial renewal period for which the exemption is requested. If an exemption is granted, the Board will issue or renew the license, as applicable. If an exemption is denied, the Board will e-mail the applicant or licensee a notice notifying them of the need to either complete an approved course.

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

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required 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-stcpsl_course_app@pa.gov.

(b) Submissions must include all of 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 must 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 individual, entity or organization 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.

CONTINUED COMPETENCY

§ 42.53. Continued competency requirements.

(a) Beginning with the July 1, 2013—June 30, 2015, biennium, an occupational therapist shall complete a minimum of 24 contact hours in each biennial period in acceptable continued competency activities listed in § 42.55 (relating to acceptable continued competency activities) as a condition of licensure renewal. Beginning with the July 1, 2019—June 30, 2021, biennium, an occupational therapy assistant shall complete a minimum of 24 contact hours in each biennial period in acceptable continued competency activities listed in § 42.55 as a condition of licensure renewal. **At least 2 of the required 24 hours shall be completed in child abuse recognition and reporting in accordance with § 42.48 (relating to child abuse recognition and reporting—mandatory training requirement).**

(b) **[A] With the limited exception of the 2 hours of mandated training in child abuse recognition and reporting, a licensee is exempt from complying with subsection (a) for the first biennial renewal period following initial licensure.**

(c) A licensee seeking to reactivate a lapsed or inactive license shall show compliance with the continued competency contact hour requirement, **including at least 2 hours of training in child abuse recognition and reporting,** during the 2-year period immediately preceding application for reactivation.

(d) As a condition of reinstatement, a licensee whose license has been suspended or revoked shall complete the required continued competency contact hours for each licensure biennium in which the license was suspended or revoked, **including at least 2 hours of approved training in child abuse recognition and reporting.**

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