

# PROPOSED RULEMAKING

## STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

[ 49 PA. CODE CH. 45 ]

### Licensure by Endorsement

The State Board of Examiners in Speech-Language Pathology and Audiology (Board) proposes to amend § 45.2 (relating to definitions) and add §§ 45.25 and 45.26 (relating to licensure by endorsement; and provisional endorsement license) to read as set forth in Annex A.

#### *Effective Date*

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

#### *Statutory Authority*

The provisions of 63 Pa.C.S. § 3111 (relating to licensure by endorsement) require licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. Additionally, section 5 of the Speech-Language Pathologists and Audiologists Licensure Act (act) (63 P.S. § 1705) provides that the Board may adopt or revise rules and regulations consistent with the law as necessary.

The act of July 1, 2020 (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (repealed) into 63 Pa.C.S. Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41).

#### *Background and Need for the Amendments*

This proposed rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license to applicants who meet the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111. Under 63 Pa.C.S. § 3111, the Board must determine whether standards for licensure are substantially

equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

Section 3111 of 63 Pa.C.S. provides that the Board may establish appropriate fees for this licensure. Accordingly, the Board has determined that applicants for licensure by endorsement shall pay the fee for initial licensure in § 45.1(1) (relating to fees).

In accordance with the requirements of Executive Order 1996-1 (4 Pa. Code §§ 1.371—1.382 (relating to regulatory review and promulgation)), the Board sent an exposure draft of this proposed rulemaking to interested parties. The Pennsylvania Speech-Language Hearing Association (PSHA)—which is the State-wide professional association representing the interests of more than 8,000 audiologists, speech-language pathologists, speech, language and hearing scientists, audiology and speech-language pathology support personnel, and students throughout the Commonwealth—commented in support of this regulation stating that “PSHA advocates for the planned modifications,” and further expressed appreciation for “crafting these regulations” and for the “efforts to improve [the] practice.” No other written comments were received.

#### *Description of the Proposed Amendments*

The Board proposes to amend § 45.2 to add a definition of the term “jurisdiction” consistent with 63 Pa.C.S. § 3111. Next, the Board proposes to amend Subchapter B (relating to licensure and certification) by adding § 45.25. Proposed § 45.25 requires an applicant to satisfy seven criteria required for licensure by endorsement. The first criterion, as set forth in proposed § 45.25(a)(1), requires an applicant to provide proof of a current license, certificate, registration or permit in good standing to practice in another jurisdiction whose standards are substantially equivalent to or exceed the standards established under section 7(a) of the act (63 P.S. § 1707(a)) and §§ 45.17 and 45.20 (relating to education requirements; and supervised professional experience required for licensure as a speech-language pathologist). Proposed § 45.25(a)(1)(i) further requires an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. Proposed § 45.25(a)(1)(iii) also requires that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because 63 Pa.C.S. § 3111 is applicable to territories and other countries that use languages other than English, where the applicable law, regulation or other rule is in a language other than English, proposed § 45.25(a)(1)(ii) requires translation of the applicable law, regulation or other rule by a professional translation service at the applicant’s expense.

Proposed § 45.25(a)(2) requires a demonstration of competency. Under this provision, an applicant must

provide proof of competency by demonstrating either experience in the practice of speech-language pathology or audiology, or by completion of continuing education. To demonstrate competency by experience, an applicant must show active engagement in the practice of the profession for at least 2 of the 5 years immediately preceding the filing of the application for licensure by endorsement. The experience must have been engaged in under a license, certificate, registration or permit in a substantially equivalent jurisdiction or jurisdictions. To demonstrate competency through completion of continuing education, an applicant must submit proof of completion of 20 hours of continuing education from an approved provider listed in § 45.505(d) (relating to approval of continuing education programs). The continuing education must be completed during the 24 months immediately preceding the date of the application for licensure by endorsement. The Board proposes completion of the continuing education within 24 months immediately preceding the date of the application because a 24-month limitation correlates with the Board's biennial renewal continuing education requirement.

Proposed § 45.25(a)(3) and (4) incorporate the statutory prohibitions of 63 Pa.C.S. § 3111 pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession or occupation and prior discipline by the jurisdiction that issued the license.

Proposed § 45.25(a)(5) provides for payment of an application fee, as required by 63 Pa.C.S. § 3111(a)(5). The applicable fee for licensure by endorsement under 63 Pa.C.S. § 3111 is the initial licensure fee in § 45.1.

Next, proposed § 45.25(a)(6) requires applicants to apply for licensure in accordance with Chapter 45 (relating to State Board of Examiners in Speech-Language Pathology and Audiology) in the manner and format prescribed by the Board.

Finally, proposed § 45.25(a)(7) requires completion of 3 hours of training in child abuse recognition and reporting, which is mandated continuing education under the Child Protective Services Law at 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training).

In proposed § 45.25(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. When a personal interview is necessary, the applicant may request the interview to be conducted by video teleconference for good cause shown.

Consistent with 63 Pa.C.S. § 3111(a)(3) and (4), proposed § 45.25(c) authorizes the Board, in its discretion, to determine that an act prohibited under subsection (a)(3) or (4) is not an impediment to licensure by endorsement.

The Board is also proposing the addition of § 45.26. Consistent with 63 Pa.C.S. § 3111(b), proposed § 45.26 provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under 63 Pa.C.S. § 3111 and proposed § 45.25. Proposed § 45.26(b) sets the expiration of a provisional endorsement license at 1 year. Additionally, upon a written request, the Board may extend the term of the license upon a showing of good cause. Proposed § 45.26(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board denies or grants a license, the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license, or upon expiration of a provisional endorse-

ment license. Finally, proposed § 45.26(d) clarifies that while an individual may reapply for a license by endorsement under proposed § 45.25, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

#### *Fiscal Impact and Paperwork Requirements*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement will be recouped through fees paid by applicants. Applicants who apply for licensure by endorsement will be impacted by the \$50 application fee in § 45.1(1) and may incur continuing education expenses if they choose to demonstrate competency by completing 20 hours of continuing education. Applicants must complete child abuse recognition and reporting training, as required by 23 Pa.C.S. § 6383(b)(3)(i). There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training.

#### *Sunset Date*

The Board continuously monitors the cost effectiveness of its regulations. 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 May 11, 2023, 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 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 comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The 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 Board Counsel, State Board of Examiners in Speech-Language Pathology and Audiology, P.O. Box 69523, Harrisburg, PA 17106-9523 or RA-STRegulatoryCounsel@pa.gov within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference 16A-6808 (Licensure by Endorsement), when submitting comments.

AMY S. GOLDMAN, MS, CCC,  
*Chairperson*

**Fiscal Note:** 16A-6808. No fiscal impact; recommends adoption.

## Annex A

## TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

## PART I. DEPARTMENT OF STATE

## Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

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

## Subchapter A. GENERAL PROVISIONS

## § 45.2. 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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*Inactive license*—A license status in which the licensee notifies the Board that the licensee no longer requires an active license to practice.

***Jurisdiction***—A state, territory or country.

*Lapsed license*—A license status in which the license has not been currently renewed.

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## Subchapter B. LICENSURE AND CERTIFICATION

(*Editor's Note:* Sections 45.25 and 45.26 are proposed to be added and are printed in regular type to enhance readability.)

## § 45.25. Licensure by endorsement.

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

(1) Have a license, certificate, registration or permit in good standing to practice speech-language pathology or audiology in another jurisdiction whose standards are substantially equivalent to or exceed those established under section 7(a) of the act (63 P.S. § 1707(a)) and §§ 45.17 and 45.20 (relating to education requirements; and supervised professional experience required for licensure as a speech-language pathologist). The following apply:

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

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

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

(2) Demonstrate competency by one of the following:

(i) Experience in the practice of speech-language pathology or audiology by demonstrating, at a minimum, that the applicant has actively engaged in the practice of speech-language pathology or audiology under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions, for at least 2 of the 5 years immediately preceding the date the application is filed with the Board.

(ii) Completion of 20 hours of continuing education in speech-language pathology or audiology from continuing education providers listed in § 45.505(d) (relating to approval of continuing education programs) or other equivalent providers, as determined by the Board, during the 24 months immediately preceding the date the application is filed with the Board. Completion of child abuse recognition and reporting training under paragraph (7) may be attributed to the 20 hours of required continuing education.

(3) Have not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice speech-language pathology or audiology under section 10 of the act (63 P.S. § 1710) or §§ 45.102—45.104 (relating to Code of Ethics; unprofessional conduct; and fraud or deceit).

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

(5) Have paid the initial licensure fee as required by § 45.1(1) (relating to fees).

(6) Have applied for licensure in accordance with this chapter in the manner and format prescribed by the Board.

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

(b) *Interview and additional information.* An applicant may be required to appear before the Board for a personal interview and may be required to submit additional information, including supporting documentation relating to competency and experience. The applicant may request the interview to be conducted by video teleconference for good cause shown.

(c) *Prohibited acts.* Notwithstanding subsection (a)(3) and (4), the Board may, in its discretion, determine that an act prohibited under section 10 of the act (63 P.S. § 1710) or §§ 45.102—45.104 or disciplinary action by a jurisdiction is not an impediment to the granting of a license by endorsement under 63 Pa.C.S. § 3111.

## § 45.26. Provisional endorsement license.

(a) *Provisional endorsement license.* The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 45.25 (relating to licensure by endorsement).

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

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

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

(c) *Termination of a provisional endorsement license.* A provisional endorsement license terminates if any of the following occurs:

(1) When the Board completes its assessment of the applicant and denies or grants the license.

(2) When the holder of the provisional license fails to comply with the terms of the provisional endorsement license.

(3) When the provisional endorsement license expires.

(d) *Reapplication.* An individual may reapply for licensure by endorsement under § 45.25 after expiration or termination of a provisional endorsement license. The individual may not be issued a subsequent provisional endorsement license.

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