

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]

Fees

The State Board of Veterinary Medicine (Board) amends § 31.41 (relating to schedule of fees). The amendment readjusts fees for veterinarian and animal health technician license applications, temporary permits and continuing education provider approvals to equal the actual cost of processing requests and issuing documents.

A. Effective Date

The new fees will be effective on publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 13(a) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.13(a)), requires the Board to establish fees by regulation. Section 13(b) of the act requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

C. Purpose and Need for the Amendment

The existing fees for applications, approvals and permits were established in the Board's first biennial reconciliation of revenue and expenses in 1988. Fees for processing applications and approvals were based upon actual costs. Fees for these services reflected an administrative overhead charge per application of \$7.62. In FY 1996-97, the administrative overhead charge per application was \$16.69. Much of the increase can be attributed to an increase in personnel costs, the fact that the Bureau now pays rent for office space (not applicable in 1988), and upgraded computer equipment.

D. Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 28 Pa. B. 2289 (May 16, 1998). The Board received one comment from a public commentator who felt the fee increase for the animal health technician was unreasonable in comparison to the fee increase for the veterinarian. The commentator felt the licensed veterinarian was in a better financial position to incur the additional expense. However, as noted in Part C of this Preamble, the fees charged reflect the actual cost of providing the service.

No comments were received from the House Professional Licensure Committee. In addition, the Independent Regulatory Review Commission (IRRC) offered no comments, suggestions or changes.

E. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the amendment, the Board solicited input and suggestions from the regulated community by providing drafts to organizations and entities which represent the licensed community.

F. Fiscal Impact

The amendment increases the application fee for veterinarians and animal health technicians, increases the continuing education program approval fee and decreases the temporary permit fee in this Commonwealth. A veterinarian will pay an additional \$15 for an initial or reactivated license. An animal health technician will pay an additional \$20 for initial certification and a continuing education provider will pay an additional \$10 for program approval. A temporary permit fee will be reduced \$20. The amendment should have no other fiscal impact on the private sector, the general public or political subdivisions.

G. Paperwork Requirements

The amendment requires the Board to alter some of its forms to reflect the new fees; however, the amendment should not create additional paperwork for the private sector.

H. Sunset Date

The Board continuously monitors its regulations. Therefore no sunset date has been assigned.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 28 Pa.B. 2289 to IRRC and the Chairpersons of the House Professional Licensure Committee and Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing this final-form regulation, the Board has considered the comments received from IRRC, the Committees and the public.

This final-form regulation was deemed approved by the House and Senate Committees on February 17, 1999. Under section 5.1(e) of the Regulatory Review Act, the regulation was deemed approved by IRRC on February 18, 1999 under section 5(e) of the Regulatory Review Act.

K. Public Comment

Interested persons may obtain information concerning the amendment by writing to Robert Kline, Administrator, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649.

L. Findings

The Board finds that:

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

(2) A public comment period was provided as required by law and all comments were considered.

(3) This amendment does not enlarge the purpose of proposed rulemaking at 28 Pa. B. 2289.

(4) This amendment is necessary and appropriate for the administration and enforcement of the authorizing acts identified in Part B of this Preamble.

M. Order

The Board, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 31, are amended by amending § 31.41 to read as set forth at 28 Pa.B. 2289.

(b) The Board shall submit this order and 28 Pa.B. 2289 to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order and 28 Pa.B. 2289 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

JEFFREY M. OTT, V.M.D.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 1278 (March 6, 1999).)

Fiscal Note: Fiscal Note 16A-577 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 99-404. Filed for public inspection March 12, 1999, 9:00 a.m.]

STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS
[49 PA. CODE CH. 36]
Continuing Education

The State Board of Certified Real Estate Appraisers (Board), by this order, amends §§ 36.41, 36.42, 36.261 and 36.262 to read as set forth in Annex A.

Omission of Proposed Rulemaking

Under authority of section 204(2) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(2) and (3)) (CDL), the Board has omitted the procedures for proposed rulemaking in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202). As more fully explained, proposed rulemaking has been omitted because: (1) all affected certificateholders of the Board have been given actual notice of the Board's intention to adopt the amendments in advance of this final rulemaking; and (2) public comment is unnecessary in that the amendments, in substantial part, reflect Federal appraisal standards mandated for certified general and residential appraisers.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (relating to regulatory review and promulgation), the Board provided draft copies of the amendments for review and comment to the major trade organizations that represent the Board's certificateholders. None of the trade organizations raised objections to the amendments.

Description and Purpose of Amendments

§ 36.41 (relating to continuing education requirement)

The Real Estate Appraisers Certification Act (REACA) (63 P. S. §§ 457.1—457.19), enacted in July 1990, established the certification classes of general appraiser and residential appraiser to perform appraisals in Federally-related transactions under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Pub.L. No. 101-73, 103 Stat. 183. Federally-related appraisals are those performed for Federally-regulated financial institutions when the transaction amounts exceed a certain level, currently \$250,000 in most cases. Section 10(b) of the REACA (63 P. S. § 457.10(b)), requires the Board to impose a continuing education requirement for biennial renewal of certification "if, and only to the minimum extent, required pursuant to the [FIRREA]." The Appraisal Qualifications Board (AQB) of The Appraisal Foundation is charged with establishing education and experience qualifications for appraisers under the FIRREA. The AQB initially promulgated a continuing education requirement for certified general and residential appraisers of 10 hours annually or 20 hours biennially; on February 14, 1994, the AQB increased the continuing education requirement for certified appraisers to 14 hours annually or 28 hours biennially, effective January 1, 1998.

The AQB's initial continuing education requirement is reflected in the current version of § 36.41, which provides that certified general and residential appraisers shall complete 20 hours of continuing education, including at least 4 hours on the Uniform Standards of Professional Appraisal Practice (USPAP), as a condition of biennial renewal of their certifications. Section 36.41 further provides that persons who receive initial certifications after January 1 of a renewal year (that is, an odd-numbered year) are not required to complete continuing education as a condition of biennial renewal of their certifications that year.

The amendments to § 36.41 increase the biennial continuing education requirement for certified general and residential appraisers from 20 hours to 28 hours in accordance with the AQB's current standard. The amendments also require that in addition to the mandatory 4 hours on the USPAP, certified general and residential appraisers shall complete at least 2 of the 28 hours on the REACA and the Board's regulations and policies. This new mandatory subject area will provide certified appraisers with a fuller understanding of their statutory and regulatory obligations. The amendments also make editorial changes to § 36.41.

§ 36.42 (relating to continuing education subject matter)

Section 36.42 lists 15 subject areas that are acceptable for continuing education under § 36.41. The amendment adds four subject areas to the list: mass appraisal model building, mass appraisal model calibration, assessment administration and mapping. The revised § 36.42 has the same continuing education subject areas as those in the revised § 36.262 for certified Pennsylvania evaluators. The continuing education subject areas for the certification classes should be the same because of the similarity between the appraising and assessment professions, and because many certificateholders are credentialed as both certified appraisers and certified Pennsylvania evaluators.

The amendments to § 36.42 also make editorial changes to the wording of some of the subject areas to mirror the language used by the AQB.

§ 36.261 (relating to continuing education requirement)

The Board regulates certified Pennsylvania evaluators under the Assessors Certification Act (ACA) (63 P. S. §§ 458.1—458.16). Certified Pennsylvania evaluators, who include county assessors and employes of revaluation, or mass appraisal, companies, are involved in the valuation of real property for ad valorem tax purposes. Section 4(d) of the ACA (63 P. S. § 458.4(d)), requires that certified Pennsylvania evaluators complete, as a condition of biennial renewal of their certifications, "a minimum of 20 hours of continuing education relating to assessment and appraisal practices." The current version of § 36.261 sets forth a 20-hour biennial continuing education requirement for certified Pennsylvania evaluators. Section 36.261 further provides that persons who receive initial certifications after January 1 of a renewal year are not required to complete continuing education as a condition of biennial renewal of their certifications that year.

The Board and the Assessors Association of Pennsylvania, a trade organization representing certified Pennsylvania evaluators, interpret section 4(d) of the ACA as permitting the imposition of a continuing education requirement in excess of 20 hours biennially. Increasing the continuing education hours for certified Pennsylvania evaluators to a level equal to the Federal standard applicable to certified general and residential appraisers will help to ensure that persons engaged in assessment activities maintain the same proficiency and skills as those engaged in appraisal activities. Accordingly, the amendments to § 36.261 increase the biennial continuing education requirement for certified Pennsylvania evaluators to 28 hours. The amendments to § 36.261 also require that certified Pennsylvania evaluators complete at least 4 of the 28 hours on the USPAP and at least two hours on the ACA and the Board's regulations and policies. The 6 hours in these mandatory subject areas will provide certified Pennsylvania evaluators with a solid grounding in the current professional and ethical standards relating to the assessing profession. The amendments to § 36.261 also make editorial changes.

§ 36.262 (relating to continuing education subject matter)

Section 36.262 lists 19 subject areas that are acceptable for continuing education purposes. The amendments make editorial changes to the wording of some of the subject areas to be consistent with the AQB's terminology.

Effective Date and Notice to Certificateholders

The amendments will become effective upon publication in the *Pennsylvania Bulletin*. The increased continuing education requirements will apply to the 1999-2001 biennial renewal period, which begins July 1, 1999; certificateholders will have to comply with the increased requirements to renew their certifications for the 1999-2001 biennial renewal period.

In July 1997, the Board mailed detailed notices to all current certificateholders advising them of the increased continuing education requirements. All persons certified since July 1997 have received the notices with their certifications.

Statutory Authority

Section 10(b) of the REACA empowers the Board to prescribe continuing education requirements, consistent with those promulgated under the FIRREA, for certified general and residential appraisers. Section 4(d) of the ACA empowers the Board to prescribe continuing education requirements for certified Pennsylvania evaluators. Additionally, section 5(2) of the REACA (63 P. S.

§ 457.5(2)) and section 3 of the ACA (63 P. S. § 458.3), empower the Board to promulgate regulations necessary to administer the provisions of the certification statutes.

Fiscal Impact and Paperwork Requirements

The amendments will cause certificateholders to incur costs in meeting the increased continuing education requirements. The costs cannot be quantified because of the large number and types of continuing education courses and providers available; however, the costs are not believed to be substantial or burdensome. Certificateholders credentialed as both certified Pennsylvania evaluators and certified general or residential appraisers will be permitted to count the same courses toward both sets of continuing education requirements, except the separate 2-hour segments on the REACA and the ACA. It is also possible that some county governments may elect to absorb the increased continuing education costs incurred by certified Pennsylvania evaluators in their employ.

The amendments will cause the Board to incur minor additional costs in processing the biennial renewal of certifications. The Board anticipates that these costs will be defrayed by biennial renewal fees charged to certificateholders.

The amendments will require certificateholders to maintain records of their compliance with the increased continuing education requirements. The amendments also will require the Board to revise its biennial renewal forms. The amendments will not impose new paperwork requirements on the Commonwealth's other agencies or its political subdivisions.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on January 25, 1999, the Board submitted copies of the amendment 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. On the same date, the Board submitted a copy of the amendments to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, the amendments were approved by the House and Senate Committees on February 14, 1999. Under section 5.1(e) of the Regulatory Review Act, the amendments were approved by IRRC on February 14, 1999.

Additional Information

Persons desiring additional information about the amendments may submit inquiries to Cheryl B. Lyne, Administrator, State Board of Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649. The telephone number of the Board's administrative office is (717) 783-4866.

Findings

The Board finds that:

(1) Public notice of the Board's intention to amend the regulations adopted by this order under the procedures in sections 201 and 202 of the CDL has been omitted under section 204(2) and (3) of the CDL because: (i) all persons affected by the regulations adopted by this order have been given actual notice in advance of final rulemaking of the Board's intention to amend the regulations; and (ii) public comment is unnecessary because the regulations

adopted by this order are, in substantial part, based on Federal standards mandated by the REACA.

(2) The amendment of the Board's regulations in the manner provided in this order is necessary and appropriate for the administration of the REACA and the ACA.

Order

The Board, acting under the REACA and the ACA, orders that:

(a) The Board's regulations, 49 Pa. Code Chapter 36, are amended by amending §§ 36.41, 36.42, 36.261 and 36.262 to read as set forth in Annex A.

(b) The Board's Chairperson shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Board's Chairperson shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

DAVID J. KING,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 1278 (March 6, 1999).)

Fiscal Note: 16A-708. 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 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

Subchapter A. GENERAL PROVISIONS CONTINUING EDUCATION

§ 36.41. Continuing education requirement.

Continuing education for certified general and residential appraisers is necessary to ensure that they maintain and increase their skill, knowledge and competency in real estate appraising. Continuing education of 28 classroom hours per biennium, including at least 4 hours on the Uniform Standards of Professional Appraisal Practice and at least 2 hours on the act, this chapter and the policies of the Board, shall be required of a certified general or residential appraiser as a condition of biennial renewal of certification. A certified general or residential appraiser whose initial certification becomes effective between January 1 and June 30 of a renewal year will not be required to furnish proof of continuing education as a condition of biennial renewal of certification in that renewal year.

§ 36.42. Continuing education subject matter.

(a) The following subjects are acceptable for continuing education:

- (1) Ad valorem taxation.
- (2) Arbitration.
- (3) Business courses related to the practice of real estate appraisal.

- (4) Development cost-estimating.
- (5) Ethics and standards of professional practice.
- (6) Land use planning, zoning and taxation.
- (7) Management, leasing, brokerage and timesharing.
- (8) Property development.
- (9) Real estate appraisal.
- (10) Real estate financing and investment.
- (11) Real estate law.
- (12) Real estate litigation.
- (13) Real estate appraisal related computer applications.
- (14) Real estate securities and syndication.
- (15) Real property exchange.
- (16) Mass appraisal model building.
- (17) Mass appraisal model calibration.
- (18) Assessment administration.
- (19) Mapping.

(b) Credit toward the classroom hour requirement will be granted only when the length of the education offering is at least 2 hours. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(c) Credit for the classroom hour requirement may be obtained from colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.

(d) Educational offerings which cover real estate appraisal related topics other than those listed in subsection (a) may be acceptable for continuing education credit if the applicant can demonstrate to the Board that the topic or program contributed to the applicant's professional competence and is consistent with the purpose of continuing education as stated in § 36.41 (relating to purpose).

(e) Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted include teaching, program development, authorship of textbooks or similar activities which the applicant can demonstrate to the Board are equivalent to obtaining continuing education.

Subchapter C. CERTIFIED PENNSYLVANIA EVALUATORS

CONTINUING EDUCATION

§ 36.261. Continuing education requirement.

Continuing education of 28 classroom hours per biennium, including at least 4 hours on the Uniform Standards of Professional Appraisal Practice and at least 2 hours on this chapter and the policies of the Board, shall be required of a certified Pennsylvania evaluator as a condition of biennial renewal of certification. A certified Pennsylvania evaluator whose initial certification becomes effective between January 1 and June 30 of a renewal year will not be required to furnish proof of continuing education as a condition of biennial renewal of certification in that renewal year.

§ 36.262. Continuing education subject matter.

(a) Continuing education subject matter shall relate to assessment and appraisal practices. The following subjects are acceptable for continuing education:

- (1) Ad valorem taxation.
- (2) Arbitration.
- (3) Business courses related to the practice of real estate appraisal.
- (4) Development cost-estimating.
- (5) Ethics and standards of professional practice.
- (6) Land use planning, zoning and taxation.
- (7) Management, leasing, brokerage and time sharing.
- (8) Property development.
- (9) Real estate appraisal.
- (10) Real estate financing and investment.
- (11) Real estate law.
- (12) Real estate litigation.
- (13) Real estate appraisal related computer applications.
- (14) Real estate securities and syndication.
- (15) Real property exchange.
- (16) Mass appraisal model building.
- (17) Mass appraisal model calibration.
- (18) Assessment administration.
- (19) Mapping.

(b) Credit for the classroom hour requirement will be granted only if the length of the educational offering is at least 2 hours. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(c) Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.241 (relating to provider registration/appraisal or assessment courses) credit for the classroom hour requirement may also be obtained from real estate appraisal of assessment related organizations, State or Federal agencies or commissions, proprietary schools and other providers.

(d) Educational offerings which cover real estate appraisal or assessment related topics other than those listed in subsection (a) will be acceptable for continuing education credit if the applicant can demonstrate to the Board that the topic or program contributed to the applicant's professional competence.

(e) Continuing education credit will also be granted for participation, other than as a student, in appraisal or assessment educational processes and programs. Examples of activities for which credit will be granted include teaching, program development, authorship of text books or similar activities if the applicant can demonstrate to the Board that these activities are equivalent to obtaining continuing education.

[Pa.B. Doc. No. 99-405. Filed for public inspection March 12, 1999, 9:00 a.m.]