

Regulatory Analysis Form

This space for use by IRRC

20-0007-0 AMH:LL

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(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Psychology

(2) I.D. Number (Governor's Office Use)

16A-6310

IRRC Number: 4232

(3) Short Title

Computerized Examination

(4) PA Code Cite

49 Pa. Code §§ 41.41, 41.42, 41.52

(5) Agency Contacts & Telephone Numbers

Primary Contact: Judith Pachter Schulder, Counsel
State Board of Psychology
(717)783-7200

Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Regulatory Review
(717)783-7200

(6) Type of Rulemaking (check one)

Proposed Rulemaking

☒ Final Order Adopting Regulation

Final, Proposed Omitted

(7) Is a 120-Day Emergency Certification Attached?

☒ No

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation addresses examination changes necessitated by the computerization of the national portion of the licensure examination.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulation is proposed under the authority of Section 3.2(1) of the Professional Psychologists Practice Act (63 P.S. §1203.2(1)).

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Effective April 1, 2001, applicants have been permitted to take the national portion of the examination by computer rather than paper and pencil. Section 41.42 limits the number of times an applicant may retake the licensure examination to four times in 8 years. The regulation greatly liberalizes this prohibition and permits applicants to take the examination up to four times a year after waiting 6 months between the first and second failure and 60 days between subsequent administrations.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Nonregulation would preclude applicants from taking the examination for licensure.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The applicants will benefit from this regulation since they will be able to take the licensure examination more often, thereby enabling them to be licensed quicker.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No persons would be adversely affected.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Applicants for the licensure examination would be required to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Notice of proposed rulemaking was published at 31 Pa.B. 6546-6548 (December 1, 2001). Publication was followed by a 30-day public comment period during which the Board received no public comments. The House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) submitted comments. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation will not result in costs and/or savings to local government since applicants pay the examination fee directly to the examiner.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The regulation will not impose any costs and/or savings on state government.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
State Board of Psychology	1998-1999	1999-2000	2000-2001	2001-2002
	\$385,089.41	\$355,791.54	\$395,303.99	\$384,000.00

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory alternatives were not considered since the only way to delete a regulation is by regulatory means.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other regulatory schemes were considered. See 22 above.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation permits Pennsylvania applicants to take the national examination up to four times per year. New York permits applicants to take the examination up to four times a year. In order to take the examination a fifth time, a year from the date of the first examination must expire. New Jersey, Delaware and Maryland do not have any restrictions on the number of times or frequency that applicants may take the examination. Ohio permits applicants to repeatedly take the examination after a 60-day waiting period between administrations, however, after the third failure, applicants must meet with an Ohio Psychology Board member. Virginia requires a one-year waiting period between reexaminations.

As for a competitive disadvantage, Section 6(c) of the Professional Psychologists Practice Act prohibits an applicant from retaking the examination after a first time failure for at least six months. The amendment increases the number of reexaminations after the first failure.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board holds public meetings on a monthly basis and public comment at the meetings is invited. The Board is scheduled to meet on July 17-18, 2002, September 10-11, 2002, October 15-16, 2002, November 19-20, 2002, and December 10-11, 2002.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

This regulation applies to all applicants for licensure by examination. The Board has perceived no special needs of any subset or group which should be excepted.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication of Final Rulemaking in the Pennsylvania Bulletin. Compliance will be required as of that date.

(31) Provide the schedule for continual review of the regulation.

The Board continuously reviews its regulations, periodically communicates with licensees through newsletters and obtains information and feedback from its licensees on a frequent basis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED
JUL 11 1994
LEGISLATIVE REFERENCE BUREAU

2232

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated by:

Copy below is approved as
to form and legality.
Executive or Independent
Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Psychology
(AGENCY)

BY: John V. Z...

DOCUMENT/FISCAL NOTE NO. 16A-6310

DATE OF APPROVAL

DATE OF ADOPTION: _____
BY: Alex M. Siegel, Ph.D./J.D.

DATE OF APPROVAL

6/21/02

(Deputy General Counsel
(~~Chief Counsel~~,
Independent Agency
(Strike inapplicable
title)

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if
applicable. No Attorney
General approval or
objection within 30 day
after submission.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PSYCHOLOGY
49 Pa. Code, Chapter 41
Computerized Examinations

The State Board of Psychology (Board) hereby amends its regulations at 49 Pa. Code, Chapter 41, to account for examination changes necessitated by the computerization of the national portion of the licensure examination.

Statutory Authority

The amendments are authorized under Section 3.2(1) of the Professional Psychologists Practice Act (Act) (63 P.S. §1203.2(1)).

Response to Public Comments and Regulatory Review

Notice of the proposed rulemaking was published at 31 Pa.B. 6546 (December 1, 2001). Publication was followed by a 30-day public comment period during which the Board did not receive any public comments. Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

Amendments in Final-Form Rulemaking

In final rulemaking, the Board has made changes to § 41.42 in accordance with the HPLC and IRRC comments.

Current § 41.42(a) precludes applicants from retaking the examination after a first-time failure for at least 6 months after the failure. Subsection (b) delineates the reexamination requirements for applicants who fail more than two times. In proposed form, the Board consolidated the reexamination requirement into subsection (a). IRRC expressed concern that the amendment does not reflect the statutory limitation in Section 6(c) of the Act, 63 P.S. 1206(c), that an applicant wait at least 6 months before retaking the examination after a first-time failure. The Board concurs with IRRC that applicants must wait at least 6 months between the first and second examination. As such, the Board has re-inserted the 6-month requirement in subsection (a) in final form. Current subsection (b) has also been reinserted to address subsequent examination failures. Since the 60-day timeframe in proposed subsection (d) only applies to subsequent examination failures, the language in subsection (d) has been consolidated to new subsection (b).

Both IRRC and the HPLC suggested that subsections (a) and (b) be modified to clarify the varying fees for reexamination. In accordance with this recommendation, the Board amended both subsections to track the fee language in § 41.12. Subsection (a) references “reapplication fee—first time examination failure” and subsection (b) references “reapplication fee—subsequent examination failure.”

Fiscal Impact and Paperwork Requirements

The proposed amendments will have no fiscal impact and will not create additional paperwork on licensees, the private sector, the general public or political subdivisions.

Sunset Date

The Board continually monitors the effectiveness of its regulations through communication with the regulated population; accordingly, no sunset date has been set.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted copies of the notice of proposed rulemaking, published at 31 Pa.B. 6546 (December 1, 2001), to IRRC, SCP/PLC and HPLC for review and comment.

In compliance with section 5(b.1) of the Regulatory Review Act (71 P.S. § 745.5(b.1)), the Board also provided IRRC, SCP/PLC, and HPLC with copies of comments received as well as other documents. In preparing the final-form regulation, the Board has considered the comments received from IRRC, SCP/PLC, HPLC, and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), this final-form regulation was (deemed) approved by the HPLC on _____, 2002, and (deemed) approved by SCP/PLC on _____, 2002. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on _____, 2002, and approved the final-form regulation.

Contact Person

Further information may be obtained by contacting Christina Stuckey, Administrative Assistant, State Board of Psychology, P.O. Box 2649, Harrisburg, PA 17105-2649, www.state.pa.us/bpoa.psybd/mainpage.htm.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the Commonwealth Documents Law (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 published at 31 Pa.B. 6546 on December 1, 2001.

(4) This amendment is necessary and appropriate for administering and enforcing the authorizing acts identified in this Preamble.

Order

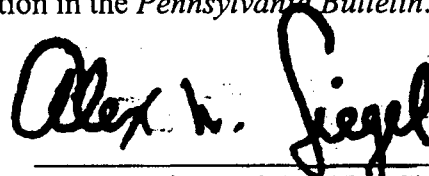
The Board, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 41, are amended to read as set forth in Annex A.

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

(c) The Board 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 on publication in the *Pennsylvania Bulletin*.

A handwritten signature in black ink that reads "Alex M. Siegel". The signature is written in a cursive, flowing style. The "A" is large and loops around the "lex". The "M" is written with a series of loops. The "Siegel" part is also cursive, with the "S" being particularly large and looping.

Alex M. Siegel, Ph.D./J.D., Chairman
State Board of Psychology

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

EXAMINATIONS

§41.41. Examinations.

[(a)] The [Board has adopted the written] examination [developed by the Association of State and Provincial Psychology Boards, which] is composed of a national and state portion [is given at regularly scheduled times and places specified by the Board]. Applicants shall obtain a passing score [as established by the Board] to qualify for licensure. Information about the content of the examination is available from the Board office.

[(b)] The Board reserves the right to direct the professional testing organization responsible for administering its examination to adopt alternative or additional examination procedures such as simulation techniques; other written examinations; essay or oral examinations; submission of work samples to demonstrate knowledge or skills in specified areas of psychology; and demonstration of familiarity with ethical, statutory or regulatory requirements bearing on the practice of psychology. The Board will exercise this right only in conformity with section 812.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as the Third-Party Testing Law (71 P.S. §279.3a(a)). Notice of substantive changes in the licensing examination will be given at least 6 months before the first administration of the new examination.

[(c)] It is the policy of the Board to accommodate persons with handicapping conditions who qualify to take the licensing examination.]

§41.42. Reexamination.

(a) After first-time failure, candidates may [take a second examination] ~~be reexamined~~, upon filing an updated application and paying the reapplication fee—FIRST TIME EXAMINATION FAILURE specified in §41.212 (relating to fees)], but only after the expiration of 6 months and within 2 years following the first examination date].

(b) [After two SUBSEQUENT unsuccessful examinations,] applicants may reapply [for admission to the licensing] to take any portion of the examination AFTER 60 DAYS FOLLOWING THE FAILURE, but

shall satisfy THE ADMINISTRATIVE, EDUCATION AND EXPERIENCE REQUIREMENTS ~~conditions~~
prevailing at the time of the reapplication, ~~including administrative, education and experience requirements~~
[The Board will permit applicants to retake the examination after a second failure only within 2 years after a
12-month interval has elapsed. The applicant shall] FILE the A VERIFICATION OF EXPERIENCE FORM
~~included in the application packet~~ AND shall PAY THE REAPPLICATION FEE—SUBSEQUENT
EXAMINATION FAILURE SPECIFIED IN §41.12[After a third failure, applicants may retake the
examination under the conditions in subsection (a)].

(c) The applicant will be judged pass or fail on the basis of the standards prevailing at the time of
reexamination.

(d) No applicant will be permitted to sit for more than four examinations in any [8]1-year period.
~~Applicants must wait at least 60 days between examinations.~~

* * * *

§41.52. Persons licensed in other states.

* * * *

(b) An applicant who has passed the [written] national portion of the examination [prepared by the
Association of State and Provincial Psychology Boards] with a score equivalent to or higher then the passing
score then prevailing in this Commonwealth will not be required to repeat this portion of the examination.

* * * *



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PSYCHOLOGY

(717) 783-7155

116 PINE STREET
P. O. BOX 2649
HARRISBURG, PA 17105-2649

October 3, 2002

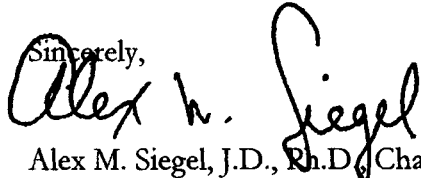
The Honorable John R. McGinley, Chairman
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

RE: Final Regulation
State Board of Psychology
Computerized Examinations (16A-6310)

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Psychology pertaining to computerized examinations.

The Board will be pleased to provide whatever information your Committee may require during the course of its review of the rulemaking.

Sincerely,

Alex M. Siegel, J.D., Ph.D., Chairman
State Board of Psychology

AMS:JPS:apm
Enclosures

c: John T. Henderson, Jr., Chief Counsel
Department of State
David M. Williams, Acting Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Gerald S. Smith, Senior Counsel in Charge
Legal Office, Counsel Division
Judith Pachter Schulder, Counsel
State Board of Psychology
State Board of Psychology

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-6310
SUBJECT: State Board of Psychology - Computerized Examinations
AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

Proposed Regulation
X Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/3/02	Lou A. Clark	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
OCT 03 2002	Ante Zelic	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10/31/02	Elean Pagan	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

June 21, 2002