

Regulatory Analysis Form

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REVIEW COMMISSION

(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: 2232

(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 proposed regulation greatly liberalizes this prohibition and permits applicants to take the examination up to four times a year with a 60-day waiting period between 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.

In compliance with Executive Order 1996-1, the Commission extended an invitation to the following boards, associations and interested licensees and educators to preliminarily review and comment on the Board's draft regulatory proposal: National Association of School Psychologists; Association of School Psychologists of Pennsylvania; Pennsylvania Mental Health Consumer's Association; Pennsylvania Psychological Association; Northwestern PA Psychological Association; Philadelphia Society of Clinical Psychologists; Philadelphia Neuropsychology Society; Northeastern PA Psychological Association; Mideast PA School Psychological Association; Lehigh Valley Psychological Association; Laurel Mountains Psychological Association; Lancaster/Lebanon Psychological Association; Harrisburg Area Psychological Association; Greater Pittsburgh Psychological Association; Delaware County Association of School Psychologists; Central Pennsylvania Psychological Association; Berks Area Psychological Society; Academy of Psychologists Engaged in Private Practice in the Lehigh Valley; Hospital and Healthsystem Association of Pennsylvania; and Philadelphia Society of Clinical Psychologists.

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:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
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	N/A	N/A	N/A	N/A

(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?

The regulation should not put Pennsylvania at a competitive disadvantage with states. Applicants for licensure in other states, including those surrounding Pennsylvania, that utilize the same national examination and are permitted to take the examination up to four times a year with a 60-day waiting period between administrations.

(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 September 24-25, 2001, October 22-23, 2001, November 19-20, 2001, and December 17-18, 2001.

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.

CAL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

7 2232

DO NOT WRITE IN THIS SPACE

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

[Signature]
BY: _____
(DEPUTY ATTORNEY GENERAL)

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

[Signature]
State Board of Psychology
(AGENCY)

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

[Signature]
BY: _____

OCT 29 2001

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-6310

DATE OF ADOPTION:

BY: *[Signature]*
Alex M. Siegel, Ph.D., J.D.

DATE OF APPROVAL

[Signature]
(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.

PROPOSED 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) proposes to amend 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.

Background and Purpose

Effective April 1, 2001, applicants for licensure have been able to take the national portion of the examination by computer, rather than paper and pencil. Due to the number of items in the item bank, applicants for this national examination are able to take the examination four times a year but must wait 60 days between administrations. Pennsylvania applicants, however, are precluded from taking these national portions of the examination as frequently due to limitations in current Section 41.42.

The state portion of the examination is still a paper and pencil examination, however efforts are being made to computerize the examination. It is currently being given two times a year, however, the number of administrations will also increase once the examination is computerized.

Statutory Authority

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

Proposed Amendments

Current section 41.41 (a) explains that the written examination was developed by the Association of State and Provincial Psychology Boards (ASPPB). Current subsection (b) explains that a professional testing organization administers the examination and current subsection (c) addresses the Boards policy to accommodate persons with handicapping conditions. The Board proposes to amend subsection (a) to clarify that the examination is composed of both a national and a state portion. The Board proposes to delete subsections (b) and (c) since these provisions are governed by the Third Party Testing Law, 71 P.S. §279.3a(a), and the Equal Opportunity for Individuals with Disabilities Act, 42 U.S.C. §§12101-12213. The Board has also deleted the reference to ASPPB from the regulations in order to save the Board from amending the regulations in the event that another association prepares the national examination.

Current section 41.42(a) contains the examination requirements for applicants who fail the examination two times. Subsection (b) contains the reexamination requirements for applicants who fail more than two times. Since the requirements in subsections (a) and (b) are substantially similar, in proposed form, the Board consolidated the reexamination requirement into subsection (a). Proposed subsection (d) would be amended to track an applicant's ability to take the national portion of the examination up to 4 times each year at 60-day intervals. As such, the Board proposes to delete the requirement in current subsection (b), that applicants wait for one year

prior to being reexamined after a second failure and the requirement in subsection (d) that prohibited the applicant from taking the examination more than four times in eight years.

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.

Compliance with Executive Order 1996-1

In compliance with Executive Order 1996-1, the Commission extended an invitation to the following boards, associations and interested licensees and educators to preliminarily review and comment on the Board's draft regulatory proposal: National Association of School Psychologists; Association of School Psychologists of Pennsylvania; Pennsylvania Mental Health Consumer's Association; Pennsylvania Psychological Association; Northwestern PA Psychological Association; Philadelphia Society of Clinical Psychologists; Philadelphia Neuropsychology Society; Northeastern PA Psychological Association; Mideast PA School Psychological Association; Lehigh Valley Psychological Association; Laurel Mountains Psychological Association; Lancaster/Lebanon Psychological Association; Harrisburg Area Psychological Association; Greater Pittsburgh Psychological Association; Delaware County Association of School Psychologists; Central Pennsylvania Psychological Association; Berks Area Psychological Society; Academy of Psychologists Engaged in Private Practice in the Lehigh Valley; Hospital and Healthsystem Association of Pennsylvania; and Philadelphia Society of Clinical Psychologists.

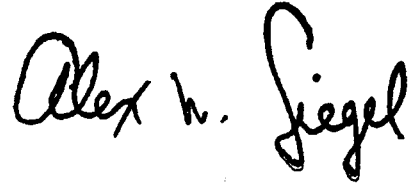
Regulatory Review

Pursuant to section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of this proposed regulation on November 14, 2001 to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC), and the House Professional Licensure Committee (HPLC). In addition to submitting the proposed rulemaking, the Board has provided IRRC, SCP/PLC, and HPLC with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the SCP/PLC and HPLC review period. The notification shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, of objections by the Board, the General Assembly, and the Governor prior to publication of the regulations.

Public Comment

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed rulemaking to Judith Pachter Schulder, Counsel, State Board of Psychology, P. O. Box 2649, Harrisburg, PA 17105-2649; telephone (717) 783-7200, www.state.pa.us, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

A handwritten signature in black ink that reads "Alex M. Siegel". The signature is written in a cursive, flowing style.

Alex M. Siegel, J.D., Ph.D., Chair

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 [and examination] fee[s] specified in §41.21 (relating to fees)[, but only after the expiration of 6 months and within 2 years following the first examination date].

(b) [After two unsuccessful examinations.] Applicants may reapply [for admission to the licensing] to take any portion of the examination, but shall satisfy 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 verification of experience form included in the application packet and shall pay the reapplication and examination fees 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 than 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 OCUCPATONAL AFFAIRS
STATE BOARD OF PSYCHOLOGY

(717) 783-7155

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

November 14, 2001

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

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

Dear Chairman McGinley:

Enclosed is a copy of a proposed 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
Albert H. Masland, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Christal Pike-Nase, Regulatory Counsel
Gerald S. Smith, Senior Counsel in Charge
Bureau of Professional and Occupational Affairs
Judith Pachter Schulder, Counsel
State Board of Psychology
State Board of Psychology

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

RECEIVED

I.D. NUMBER: 16A-6310

2001 NOV 14 PM 12:13

SUBJECT: State Board of Psychology - Computerized Examinations

REVIEW COMMISSION

AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

X Proposed Regulation

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

11-14-01

Lori A. Clark

HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

11/14/01 *Spence Zuber*

SENATE COMMITTEE ON CONSUMER PROTECTION &
PROFESSIONAL LICENSURE

11/14/01 *J. Melnick*

INDEPENDENT REGULATORY REVIEW COMMISSION

[Signature]

ATTORNEY GENERAL

[Signature]

LEGISLATIVE REFERENCE BUREAU

October 31, 2001