

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		<p>This space for use by IRRC</p> <p style="font-size: 1.5em; font-weight: bold; text-align: center;">RECEIVED</p> <p style="text-align: center;">JUN 16 AM 11:42</p> <p style="text-align: center; font-weight: bold;">INDEPENDENT REGULATORY REVIEW DIVISION</p>
<p>(1) Agency</p> <p>Department of State, Bureau of Professional and Occupational Affairs, State Board of Nursing</p>		<p>IRRC Number: 2425</p>
<p>(2) I.D. Number (Governor's Office Use)</p> <p>16A-5121</p>		
<p>(3) Short Title</p> <p>Temporary Practice Permits</p>		
<p>(4) PA Code Cite</p> <p>49 Pa. Code, §§ 21.1, 21.7, 21.27, 21.141, 21.149 and 21.154</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: Teresa Lazo-Miller, Counsel State Board of Nursing (717) 783-7200</p> <p>Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200</p>	
<p>(6) Type of Rulemaking (check one)</p> <p><input type="checkbox"/> Proposed Rulemaking</p> <p><input checked="" type="checkbox"/> Final Order Adopting Regulation</p> <p><input type="checkbox"/> Policy Statement</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p style="padding-left: 40px;">The regulation provides guidelines for professional and practical nurses who wish to apply for a temporary practice permit or for an extension of a temporary practice permit.</p>		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p style="padding-left: 40px;">Section 4.1 of the Professional Nursing Law, (Act), (63 P.S. § 214.1), authorizes the Board to issue a temporary practice permit to a professional nurse and section 3.1 of the Practical Nurse Law, (63 P.S. § 653.1), authorizes the Board to issue a temporary practice permit to a practical nurse.</p> <p style="padding-left: 40px;">Section 2.1(k) of the Act, (63 P.S. § 212.1(k)), authorizes the Board to establish rules and regulations to implement the Act. Section 17.6 of the Practical Nurse Law, (63 P.S. § 667.6), authorizes the Board to establish rules and regulations to implement the Practical Nurse Law.</p>		

REGULATION ANALYSIS FORM

(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.

The regulation is not mandated by federal or state law or court order or federal regulation.

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

The regulation gives needed detail to the general provisions in the professional and practical nursing laws that bestow discretion on the Board to issue a temporary practice permit. The Board has found that TPPs have been abused and permit holders with no intention of applying for licensure in the Commonwealth have used the permits as temporary "licenses" to practice. This conduct jeopardizes the citizens of the Commonwealth because the Board has no statutory authority to discipline a permit holder for violations of the nursing laws. In addition, many of these individuals have delayed taking the licensure examination and have requested extensions of their TPP's because of the high probability that they will fail the examination. This places the citizens of the Commonwealth at risk because the Legislature has determined that the licensure examination is an indicator of competence to practice nursing. Therefore, unqualified individuals have asked to practice nursing in the Commonwealth for extended periods of time knowing they will never be able to qualify for licensure.

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

The health and safety of the citizens of the Commonwealth are threatened by the prolonged practice of individuals who do not meet the educational and examination requirements 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 general public will benefit by being assured of the competence of all licensed nurses practicing in the Commonwealth.

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.)

The Board has not identified any particular groups that will be adversely affected by the regulation.

(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.)

All graduate nurses who seek to practice on a TPP prior to taking the licensure examination and all applicants for licensure by endorsement who seek to practice on a TPP prior to obtaining licensure will have 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.

The public was invited to comment on the publication of proposed rulemaking. No comments were received from the public.

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

Minimal costs will be incurred because the regulation requires that applicants return proof of submission of various documents to provide to the Board upon request. In other words, the requests for documents must be sent by certified mail, return receipt requested, which is more costly than first class mail. However, these costs are generally borne by the employer rather than the individual applicant. There will also be savings to the regulated community: because the regulation will require prompt requests for documentation needed for the Board to consider an application for licensure, many individuals will not need to apply for a TPP extension. For every 50 applicants, the estimated increased costs are $\$4.00 \times 50 = \200.00 costs. If 25 applicants are spared the extension application cost, the savings are $\$60.00 \times 25 = \$1,500.00$ savings.

(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.

There are no costs or savings to local governments associated with complying with the regulation.

(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.

There are no costs or savings to state government because the Board is self-supporting.

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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	1500	1500	1500	1500	1500	1500
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Savings	NA	NA	NA	NA	NA	NA
COSTS:						
Regulated Community	200	200	200	200	200	200
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Costs	NA		\$	\$		
REVENUE LOSSES:						
Regulated Community	NA	NA	NA	NA	NA	NA
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Revenue Losses	NA	NA	NA	NA	NA	NA

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

Minimal costs will be incurred because the regulation requires that certain requests for documents be sent by certified mail, which is more costly than first class mail. However, these costs are generally borne by the employer rather than the individual applicant. There will also be savings to the regulated community: because the regulation will require prompt requests for documentation needed for the Board to consider an application for licensure, many individuals will not need to apply for a TPP extension. For every 50 applicants, the estimated increased costs are $\$4.00 \times 50 = \200.00 costs. If 25 applicants are spared the extension application cost, the savings are $\$60.00 \times 25 = \$1,500.00$ savings.

Regulatory Analysis Form

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

Program	FY -01-02	FY -02-03	Projected FY - 03-04	BUDGETED FY 04-05
State Board of Nursing	\$4,324,290.12	\$5,091,980.11	\$5,269,874.44	\$5,989,000.00

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

There are both financial and public safety benefits to the regulation.

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

No nonregulatory alternatives were considered because the Board wished to give all applicants notice of the requirements.

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

The Board gave careful consideration to the types of delays applicants experience in obtaining verifications needed for the Board to consider licensure in determining the appropriate deadlines that applicants must meet.

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.

No federal standards apply.

(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 will not put Pennsylvania at a competitive disadvantage with other states. Both the granting of and extension of temporary practice permits is a matter of the Board discretion. New Jersey and Delaware do not issue temporary practice permits. Ohio issues temporary permits to individuals applying for licensure by endorsement only after they have passed the licensure examination required in the other jurisdiction that is equivalent to the examination required in Ohio (The NCLEX-RN). Thus, Ohio does not issued TPPs to persons who can obtain a TPP in Pennsylvania. West Virginia only issues a TPP to a nurse who has completed the GGFNS verification of education, but prior to passing the licensure examination. New York grants a "limited permit" to graduates of schools of nursing approved in another state, province or country. The permit is valid for up to one year or failure of the licensing examination, whichever occurs first. NYS Educ. Law, Article 139, § 6907.

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

The regulation will not affect existing or proposed regulations of the Board or other state agencies.

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

The Board has met with representatives from employers and staffing agencies, and legislators regarding the problems created by TPP-holders who do not timely submit documentation in support of their requests for licensure. The Board has also discussed these problems and the regulation at several meetings in open session before nursing organization representatives.

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.

The regulation will require applicants to maintain proof that they requested verification materials from their country or state of licensure, their nursing education program, and CGFNS.

(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.

No particular affected groups were identified.

(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 become effective on publication of the final-form rulemaking in the Pennsylvania Bulletin.

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

The Board continuously monitors its regulations at its meetings. Meeting dates are available on the Department of State's website, www.dos.state.pa.us.

- (4) School bulletin, including the following:
 - (i) Comprehensive and current information.
 - (ii) Clearly defined refund policies governing fees and tuition paid by the students.
 - (iii) Clearly defined policies relating to admission, promotion, retention, transfer, advanced placement and dismissal.

§ 21.377. Custody of records.

- (a) When a program closes, the college or university is responsible for the safekeeping of the records of students for at least 50 years after graduation of the last class.
- (b) If the college or university also closes, advice should be obtained from the Board concerning the permanent safekeeping and availability of the records of the school of nursing.
- (c) The Board shall be informed in writing concerning the permanent placement of these records.

[Pa.B. Doc. No. 04-1635. Filed for public inspection September 3, 2004, 9:00 a.m.]

[49 PA. CODE CH. 21]

Temporary Practice Permits

The State Board of Nursing (Board) proposes to add §§ 21.7 and 21.149 (relating to temporary practice permits) to read as set forth in Annex A.

Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin*.

Statutory Authority

The proposed rulemaking is authorized under sections 2.1(k) and 4.1 of the Professional Nursing Law (act) (63 P.S. §§ 212.1(k) and 214.1) and sections 3.1 and 17.6 of the Practical Nurse Law (63 P.S. §§ 653.1 and 667.6).

Background and Need for the Proposed Rulemaking

Over the past 2 years, the Board has experienced a great increase in the number of applications for temporary practice permit (TPP) extensions, specifically among individuals seeking extensions to TPPs for currently-licensed nurses. Section 14.1 of the act and section 17.6 of the Practical Nurse Law authorize the Board to issue a TPP to a person who holds a current license issued by another state, territory or possession of the United States.

Qualifications for licensure vary from state to state. In this Commonwealth, individuals who have graduated from a school of nursing that is not approved by the Board (that is, a nursing education program outside this Commonwealth) shall have their educational program evaluated to determine if it is equivalent to the education required for licensure in this Commonwealth. In addition, an individual shall have passed the licensure examination (NCLEX-RN for professional nurses or NCLEX-PN for practical nurses). See section 7 of the act (63 P.S. § 217) and section 16 of the Practical Nurse Law (63 P.S. § 656).

In reviewing the applications for extension, the Board discovered that the vast majority of applicants have not timely completed their applications for licensure. The statute requires that an applicant file an application for

licensure at the same time as the application for a TPP. Submission of an application for licensure triggers the review of the applicant's nursing education program for equivalency, because one of the supporting documents submitted is a transcript of the individual's course work in his nursing education program. Upon review of the requests for extension of TPPs, the Board has discovered that applicants fail to provide the Board with required supporting documents in their license applications. The Board has identified this failure to provide supporting documentation as the reason these nurses experience delays in obtaining licensure. This proposed rulemaking sets forth time limits by which an applicant shall request supporting documentation for licensure. These time limits should dramatically reduce the requests for extensions to TPPs.

The Board seeks to reduce multiple or lengthy extensions to TPPs for several reasons. First, until an applicant has completed the application for licensure, the Board has not reviewed the applicant's qualifications to practice nursing. Therefore, it is possible that some applicants for licensure may practice in this Commonwealth for a period of time before the Board has determined whether the individual meets the statutory qualifications, which may in turn pose a threat to public health and safety. Second, the statute does not provide a mechanism by which the Board can discipline an individual who holds a TPP for misconduct. The Board can demand the return of the TPP and, if the person does apply for licensure, any misconduct while holding a TPP may provide sufficient grounds to deny licensure. However, the Board cannot require that the TPP holder participate in educational programs or place the TPP on probation.

Section 21.7 and 21.149 are virtually identical except that § 21.7 applies to professional nurses and § 21.149 applies to practical nurses. Therefore, the Board will describe only § 21.7. Subsection (a) applies to TPPs for graduate nurses and subsection (b) applies to TPPs for currently licensed nurses.

Description of the Proposed Rulemaking

Section 21.7(a)(1) mirrors section 4.1 of the act in requiring an individual who has graduated from an approved nursing program who wishes to practice as a graduate nurse prior to taking the licensing examination to apply for a TPP. In addition, § 21.7(a)(1) mirrors the statutory restriction that a TPP is valid for up to 1 year and expires if the TPP holder fails the licensing examination.

Section 21.7(a)(2) requires that the TPP holder submit an application for licensure by examination to the Board and register with the professional testing organization at least 90 days prior to the expiration date of the TPP. This provision is based on the 90-day validity period of the "authorization to test." In other words, once an applicant has been approved to take the licensing examination, that approval is valid for 90 days.

Section 21.7(a)(3) provides that a TPP holder who wishes to apply for an extension of the TPP shall apply for the extension at least 60 days prior to the date the TPP is set to expire. In addition, the applicant for extension shall provide the Board with a detailed explanation of the need for the extension. Finally, § 21.7(a)(3) notifies these applicants that the Board will only grant an extension in cases of illness or extreme hardship. The 60-day time period allows the Board sufficient time to process and consider a request for an extension at a meeting of the Board.

Section 21.7(a)(4) provides that an extension will not be granted to an individual who has failed to comply with the 90-day and 60-day deadlines in § 21.7(a)(2) and (3). This provision is necessary to relieve the Board from considering extension applications from applicants who have not taken the steps necessary to timely obtain permanent licensure from the Board.

Section 21.7(b) applies to TPPs for currently-licensed professional nurses. Section 21.7(b)(1) mirrors section 4.1 of the act by providing that an individual who is currently licensed and wishes to practice in this Commonwealth during the 1-year period from the date of application for licensure until the Board makes a determination on the application may apply for a TPP. The Board specifies that the applicant need only submit Form 1 of the application for licensure, because the other forms are essentially verifications of education and licensure from the other state and must be submitted directly from the individual's educational institution and the other state. Moreover, once all the forms are completed, the Board will consider the application for licensure and a TPP would not be necessary.

Section 21.7(b)(2) provides that the individual applying for a TPP as a currently-licensed nurse shall demonstrate proficiency in English. This is necessary to ensure that the nurse can pass the licensure examination and can take and execute orders in the course of the nurse's practice. Currently, all licensed nurses for whom English is a second language who apply for licensure through the Commission on Graduates of Foreign Nursing Schools (CGFNS) are required to pass an English proficiency examination. The Board's experience with the CGFNS strongly suggests that requiring this examination actually speeds the licensure process and helps to ensure public safety. The nurse may demonstrate English proficiency by submitting proof that the nursing education program was conducted in English or by passing an English proficiency examination. The nurse shall submit proof of English proficiency with Form 1 of the application. This provision is designed to ensure that a nurse who will be granted a TPP is sufficiently knowledgeable in English to communicate with patients, other nurses and doctors from whom the nurse will take orders. The provision ensures that the nurse will not be hindered from safe practice by an inability to understand English.

Section 21.7(b)(3) requires the TPP holder to submit Form 2 of the application for licensure within 45 days of the date the TPP is granted. Form 2 includes the application for verification of licensure from the foreign jurisdiction, request of certification of the individual's nursing education program, including a copy of the individual's transcript translated into English, if necessary, and verification that the applicant has submitted an application to the CGFNS. Section 5 of the act (63 P. S. § 215) and § 21.28(c) (relating to licensure by endorsement) mandate verification of a foreign-educated applicant's educational qualifications by the CGFNS. The Board's review of the date that applicants who were seeking TPP extensions had applied for verification of their foreign nursing license, certification of their nursing education program and verification of their nursing program through the CGFNS demonstrated that the applicants were not applying for these verifications until approximately 1 to 2 months prior to the expiration date of the TPP. The CGFNS verification procedure alone takes approximately 9 months, depending on the availability of documentation from a particular country.

Prompt application for verifications will alleviate most of the need for applicants to apply for an extension of their TPP.

Section 21.7(b)(4) provides that each TPP applicant shall ensure that the Board has received all supporting documentation for an application for licensure at least 90 days prior to the expiration of the TPP. The Board will notify applicants at this 90-day point if their applications are incomplete. Section 21.7(b)(4) requires the applicant to submit a written explanation of the efforts made to timely secure the required documentation.

Section 21.7(b)(5) authorizes an individual who holds a TPP to apply for an extension of the TPP if the applicant has complied with this regulation and submitted an extension application, remitted the application fee, submitted a written explanation of the reasons for the extension request and provided proof of compliance with § 21.7(b)(3). Finally, § 21.7(b)(5) requires that the individual seeking an extension request the extension at least 60 days prior to the expiration date of the TPP. It has been the common practice of TPP holders to request an extension on the last day the TPP is valid. The Board may not meet for 3 or more weeks after the date the TPP expires and the individual continues to practice without benefit of licensure or a TPP. This paragraph should insure that nurses have no gap in their authority to practice, and insure the public safety because these nurses are not covered by insurance and an injured patient could be left without recourse.

Section 21.7(b)(6) reiterates that an individual who fails to meet the requirements of subsection (b) will not be granted an extension of the TPP expiration date.

Section 21.149 is very similar to § 21.7, but in reference to TPPs for practical nurses.

The Board requested input in drafting of the proposed rulemaking from nursing associations and hospital systems. These organizations were as follows: American Association of Neuroscience Nurses, Emergency Nurses Association, GPC—Oncology Nursing Society, The Hospital and Healthsystem Association of Pennsylvania, Intravenous Nurse Society, Licensed Practical Nurses Association of Pennsylvania, Pennsylvania Association of Home Health Agencies, Pennsylvania Association of Private School Administrators, Pennsylvania Association of Non-Profit Homes for the Aging, Pennsylvania Association of Nurse Anesthetists, Pennsylvania Association of Practical Nursing Program Administrators, Pennsylvania Coalition of Nurse Practitioners, Pennsylvania College of Associate Degree Nursing, Pennsylvania Council of Operating Room Nurses, Pennsylvania Department of Health-Bureau of CH Systems, Pennsylvania Health Care Association, Pennsylvania Higher Education Nursing Schools Association, Pennsylvania League for Nursing, Inc., Pennsylvania Organization of Nurse Leaders, Pennsylvania Society of Gastroenterology Nurses and Associates, Pennsylvania State Nurses Association, School Nurse Section, Southwestern Pennsylvania Organization for Nurse Leaders, Pennsylvania Medical Society, Nurses of Pennsylvania, Pennsylvania Association of School Nurses and Practitioners, Pennsylvania Nurses Association, and Professional Nursing Resources, Inc., Grane Healthcare and the North Philadelphia Health System. The Board did not receive any comments on the exposure draft.

Also, the Board considered the impact the proposed rulemaking would have on the regulated community and on public safety and welfare. The Board finds that the proposed rulemaking addresses a compelling public interest as described in this preamble.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

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 August 23, 2004, the Department 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 which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Ann Steffanic, Board Administrator, State Board of Nursing, P.O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

JANET HUNTER SHIELDS, MSN, CRNP, CNS,
Chairperson

Fiscal Note: 16A-5121. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 49. PROFESSIONAL LICENSURE AND VOCATIONAL STANDARDS****PART I. DEPARTMENT OF STATE****Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS****CHAPTER 21. STATE BOARD OF NURSING****Subchapter A. REGISTERED NURSES****GENERAL PROVISIONS****§ 21.7. Temporary practice permits.**

(a) The Board may grant a temporary practice permit to a graduate registered nurse as follows:

(1) An individual who wishes to practice as a graduate registered nurse during the period from the date of completion of a Board-approved educational program and notification of the results of the licensing examination shall submit an application for a temporary practice permit for a graduate registered nurse on a form provided by the Board and remit the fee specified in § 21.5 (relating to fees). A temporary practice permit granted

under this section is valid for up to 1 year from the date of issuance and immediately expires if the applicant fails the licensing examination.

(2) At least 90 days prior to the expiration date of the temporary practice permit, the graduate registered nurse shall:

(i) Submit an application for licensure by examination as a registered nurse.

(ii) Remit the fee specified in § 21.5.

(iii) Submit the licensure examination registration form and fee required to the professional testing organization.

(3) At least 60 days prior to the expiration date of the temporary practice permit, the graduate registered nurse who wishes to extend the expiration date of the temporary practice permit because of illness or extreme hardship shall:

(i) Submit an application for temporary practice permit extension on a form provided by the Board.

(ii) Remit the fee specified in § 21.5.

(iii) Provide a detailed, written explanation of the reason the extension is requested. If requesting an extension due to illness, the applicant shall provide certification of the illness from the applicant's treating physician.

(4) The Board will not grant an extension to an individual who fails to meet the requirements of paragraphs (2) and (3).

(b) The Board may grant a temporary practice permit to a currently-licensed registered nurse as follows:

(1) An individual who holds a current registered nurse license issued by any other state, territory or possession of the United States or Canada and who wishes to practice professional nursing during the period from the date of submission of Form 1 of the application for licensure until the Board makes a determination on the application for licensure or 1 year, whichever comes first, shall:

(i) Submit an application for temporary practice permit for a currently-licensed registered nurse on a form provided by the Board.

(ii) Remit the fee specified in § 21.5.

(2) An individual applying for a temporary practice permit for a currently-licensed registered nurse shall demonstrate proficiency in English by submitting proof that the individual's nursing education program was conducted in English or that the individual has received a passing score on a Board-approved English proficiency examination. A list of Board-approved English proficiency examinations is available upon request to the Board. This information must be submitted with Form 1 of the application for licensure.

(3) Within 45 days of the date the temporary practice permit is issued, an individual who has been granted a temporary practice permit for a currently-licensed registered nurse shall submit Form 2 of the application for licensure and shall:

(i) Request verification of licensure from the foreign jurisdiction and retain documentation of the submission of the request to provide to the Board upon request.

(ii) Request certification of the applicant's nursing education program from the licensing board or appropriate educational authorities. The certification of nursing education must be submitted to the Board in English directly from the appropriate educational authorities. The appli-

cant shall retain documentation of the submission of the request to provide to the Board upon request.

(iii) Submit the Commission on Graduates of Foreign Nursing Schools (CGFNS) application if the applicant is required to meet CGFNS requirements in §§ 21.23(c) and 21.28(c) (relating to qualifications of applicant for examination; and licensure by endorsement) and retain documentation of the submission of the CGFNS application to provide to the Board upon request.

(iv) If the applicant is required to take the licensure examination, submit the licensure examination registration form and fee required to the professional testing organization and retain documentation of the submission of the application to take the examination to provide to the Board upon request.

(4) An individual who has been granted a temporary practice permit for a currently-licensed registered nurse shall ensure that all documentation in support of the application for licensure is received by the Board no later than 90 days prior to the expiration date of the temporary practice permit. Any individual whose supporting documentation has not been received by the Board at least 90 days prior to the expiration date of the temporary practice permit shall submit, within 10 days of receiving notice of the deficiency from the Board, a detailed written explanation of why the supporting documentation has not been supplied to the Board in a timely manner.

(5) An individual who has been granted a temporary practice permit for a currently-licensed registered nurse and who has complied with paragraphs (2)–(4) may request an extension of the temporary practice permit by:

(i) Submitting a temporary practice permit extension application provided by the Board.

(ii) Remitting the fee specified in § 21.5.

(iii) Submitting a written, detailed explanation of the reasons the extension is requested. If requesting an extension due to illness, the applicant shall provide certification of the illness from the applicant's physician.

(iv) Providing proof of the timely request for verification of licensure referenced in paragraph (3)(i).

(6) The request for temporary practice permit extension must be submitted to the Board at least 60 days prior to the expiration date of the temporary practice permit.

(7) The Board will not grant an extension to an individual who fails to meet the requirements of paragraphs (2)–(5).

Subchapter B. PRACTICAL NURSES

GENERAL PROVISIONS

§ 21.149. Temporary practice permits.

(a) The Board may grant a temporary practice permit to a graduate practical nurse as follows:

(1) An individual who wishes to practice as a graduate practical nurse during the period from the date of completion of a Board-approved educational program and notification of the results of the licensing examination shall submit an application for temporary practice permit for a graduate practical nurse on a form provided by the Board and remit the fee specified in § 21.5 (relating to fees). A temporary practice permit granted under this section is valid for up to 1 year from the date of issuance and immediately expires if the applicant fails the licensing examination.

(2) At least 90 days prior to the expiration date of the temporary practice permit, the graduate practical nurse shall:

(i) Submit an application for licensure by examination as a practical nurse.

(ii) Remit the fee specified in § 21.5.

(iii) Submit the licensure examination registration form and fee required to the professional testing organization.

(3) At least 60 days prior to the expiration date of the temporary practice permit, the graduate practical nurse who wishes to extend the expiration date of the temporary practice permit shall:

(i) Submit an application for temporary practice permit extension on a form provided by the Board.

(ii) Remit the fee specified in § 21.5.

(iii) Provide a detailed, written explanation of the reasons the extension is requested. If requesting an extension due to illness, the applicant shall provide certification of the illness from the applicant's physician.

(4) The Board will not grant an extension to an individual who fails to meet the requirements of paragraphs (2) and (3).

(b) The Board will grant a temporary practice permit for a currently-licensed practical nurse as follows:

(1) An individual who holds a current practical nurse license issued by any other state, territory or possession of the United States or Canada and who wishes to practice practical nursing during the period from the date of submission of Form 1 of the application for licensure until the Board makes a determination on the application for licensure or 1 year, whichever comes first, shall:

(i) Submit an application for temporary practice permit for a currently-licensed practical nurse on a form provided by the Board.

(ii) Remit the fee specified in § 21.5.

(2) An individual applying for a temporary practice permit for a currently-licensed practical nurse shall demonstrate proficiency in English by submitting proof that the individual's nursing education program was conducted in English or that the individual has received a passing score on a Board-approved English proficiency examination. A list of Board-approved English proficiency examinations is available upon request to the Board. This information shall be submitted with Form 1 of the application for licensure.

(3) Within 45 days of the date the temporary practice permit is issued, an individual who has been granted a temporary practice permit for a currently-licensed practical nurse shall submit Form 2 of the application for licensure and shall:

(i) Request verification of licensure from the foreign jurisdiction and retain documentation of submission of the request to provide to the Board upon request.

(ii) Request certification of the applicant's nursing education program from the licensing board or appropriate educational authorities. The certification of nursing education must be submitted to the Board in English directly from the appropriate educational authorities. The applicant shall retain documentation of submission of the request to submit to the Board upon request.

(iii) Submit the Commission on Graduates of Foreign Nursing Schools (CGFNS) application if the applicant is required to meet CGFNS requirements in § 21.155(d)

(relating to licensure by endorsement) and retain documentation of the submission of the CGFNS application to provide to the Board upon request.

(iv) If the applicant is required to take the licensure examination, submit the licensure examination registration form and fee required to the professional testing organization and retain documentation of the submission of the application to take the examination to provide to the Board upon request.

(4) An individual who has been granted a temporary practice permit for a currently-licensed practical nurse shall ensure that all documentation in support of the application for licensure is received by the Board at least 90 days prior to the expiration date of the temporary practice permit. An individual whose supporting documentation has not been received by the Board at least 90 days prior to the expiration date of the temporary practice permit shall submit, within 10 days of receiving notice of the deficiency from the Board, a detailed written explanation of why the supporting documentation has not been supplied to the Board in a timely manner.

(5) An individual who has been granted a temporary practice permit for a currently-licensed practical nurse and who has complied with paragraphs (2)—(4) may request an extension of the temporary practice permit because of illness or extreme hardship by:

(i) Submitting a temporary practice permit extension application on a form provided by the Board.

(ii) Remitting the fee specified in § 21.5.

(iii) Submitting a written, detailed explanation of the reasons the extension is requested. If requesting an extension due to illness, the applicant shall provide certification of the illness from the applicant's treating physician.

(iv) Providing proof of the timely request for verification of licensure referenced in paragraph (3)(i).

(6) The request for temporary practice permit extension must be submitted to the Board at least 60 days prior to the expiration date of the temporary practice permit.

(7) The Board will not grant an extension to an individual who fails to meet the requirements of paragraphs (2)—(5).

[P.A.B. Doc. No. 04-1636. Filed for public inspection September 3, 2004, 9:00 a.m.]

STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

Examination Fees

The State Board of Pharmacy (Board) proposes to amend § 27.91 (relating to schedule of fees) 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

This proposed rulemaking is authorized under sections 6(k)(1) and (9) and 8.2(a) of the Pharmacy Act (act) (63 P. S. §§ 390-6(k)(1) and (9) and 390-8.2(a)) and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

Background and Purpose

The proposed amendment to § 27.91 deletes references to the fees for the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE). These fees are set by the administrators of the examinations, not by the Board. To avoid the necessity of amending the regulation whenever the examination administrator changes the fees, the Board proposes to delete references to the fees.

Description of Proposed Rulemaking

The Board proposes to amend § 27.91 to delete references to the fees for the NAPLEX and the MPJE examinations. The fees are set by the test administrators.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no fiscal impact on the Board or its licensees. The proposed rulemaking should have no fiscal impact on the private sector, the general public or political subdivisions. The proposed rulemaking will avoid preparation of new regulations each time an examination fee is changed and should not create additional paperwork for the private sector.

Sunset Date

The Board reviews the effectiveness of its regulations on an ongoing 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 August 23, 2004, 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 must specify the regulatory review criteria 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 of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Carole Clarke, Counsel, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

MICHAEL J. ROMANO, R.Ph.,
Chairperson

Fiscal Note: 16A-5413. No fiscal impact; (8) recommends adoption.

There were no commentators who requested additional information on the final-form regulation.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Nursing
(AGENCY)

BY: David J. Devries
DAVID J. DEVRIES

DOCUMENT/FISCAL NOTE NO. 16A-5121

FEB 14 2006

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: Joanne L. Sorensen, R.N.
Joanne L. Sorensen, R.N.

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

TITLE: Chairperson
(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 NURSING
49 PA. CODE, CHAPTER 21
TEMPORARY PRACTICE PERMITS**

The State Board of Nursing (Board) adopts amendments to §§ 21.1, 21.7, 21.27, 21.141, 21.149 and 21.154, relating to temporary practice permits (TPPs) for professional nurses (RNs) and practical nurses (LPNs), to read as set forth in Annex A.

Notice of Proposed Rulemaking was published at 34 Pa.B. 4897 (September 4, 2004). Publication was followed by a 30-day public comment period during which the Board did not receive any comments from the public. On October 5, 2004, the House Professional Licensure Committee (HPLC) submitted 14 comments/recommendations. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. On November 3, 2004, the Independent Regulatory Review Commission (IRRC) submitted numerous comments to the proposed rulemaking.

The Board submitted the final rulemaking package to the SCP/PLC, HPLC and IRRC on November 28, 2005. On December 12, 2005, the Board withdrew the final rulemaking package in order to address a concern raised by IRRC.

Summary of Comments and Responses to Proposed Rulemaking

HPLC Comments

The HPLC's recommended that the Board add definitions for the following terms: "graduate registered nurse," "graduate practical nurse," "Form 1" and "Form 2." The Board has amended its final form rulemaking to add definitions for the terms "graduate registered nurse" and "graduate practical nurse" in §§ 21.1 and 21.141 (relating to definitions). The Board has ceased using the terms "Form 1" and "Form 2" in favor of descriptive terms.

The HPLC commented that the committee believes that § 21.7(a) (relating to temporary practice permits) applies to graduates of board-approved programs for registered nurses. The HPLC asked whether it would be clearer for the Board to state in subsection (a) that the provisions apply to an individual who has graduated from a board-approved educational program. Although the Board only approves programs in this Commonwealth, under section 4(4) of the Professional Nursing Law (act) (63 P.S. § 214(4)) a graduate registered nurse may be the graduate of an approved program of professional nursing in the Commonwealth or any other state. Therefore, the Board has amended the language in § 21.7(a)(1) to conform to the statutory language.

The HPLC asked "whether it would be clearer to state the rule that TPPs are only good for 1 year, expire if the applicant fails the licensing exam and can only be extended for illness or extreme hardship and to state that in one paragraph." The Board has amended § 21.7(a) to adopt this recommendation.

The HPLC noted that “[i]t is the committee’s understanding that the board will waive the deadlines of 60 days and 90 days if the nurse cannot meet those deadlines due to illness or other hardship” and asked the Board to rewrite § 21.7(a)(4) for clarity. The Board intended § 21.7(a)(4) to be an absolute rule. If a nurse is so severely ill or disabled within the last 2 to 3 months prior to the expiration of the TPP that the nurse cannot submit a licensure application, the nurse will likely also be unable to practice nursing utilizing the TPP.

The HPLC recommended that § 21.7(b) should be rewritten to clarify that this subsection applies to currently-licensed nurses as defined in § 21.7(b)(1). The Board has adopted the committee’s suggestion.

The HPLC noted that § 21.7(b) was not clear with respect to the statutory rules regarding temporary practice permits and suggested that the Board amend the section to restate the statutory provision. The Board has adopted the committee’s suggestion.

The HPLC asked the Board to review §§ 21.149 and 21.154 (relating to temporary practice permits, and unlicensed candidates) to ensure the sections did not conflict. Section 21.154 is merely a restatement of the statutory provision in section 3.1 of the Practical Nurse Law (63 P.S. § 653.1), which limits a TPP to 1 year, unless extended by the Board upon presentation of validating documentation. All TPP holders are required to practice under supervision. The Board finds no conflict between the sections. Section 21.149 details the TPP application process and the requirements and documentation required if a TPP holder requests an extension of the TPP.

The HPLC commented regarding TPPs for LPNs similarly to its second comment, related to RNs. The Board has also amended § 21.149(a) and (b) to more clearly explain to whom these sections apply.

The HPLC noted that §§ 21.7(a) and 21.149(a) were not parallel in language related to extension due to illness or hardship. The Board has added this language to § 21.149(a).

The HPLC’s raised the same inquiry as its fourth comment, in relation to § 21.149, regarding practical nurses. The Board intended that any individual who filed to meet the requirements of §§ 21.149(a)(2) and (a)(3) could not obtain an extension. As with professional nurses, the Board believes that if a nurse is so severely ill or disabled within the last 2 to 3 months prior to the expiration of the TPP that the nurse cannot submit a licensure application, the nurse will likely also be unable to practice nursing utilizing the TPP.

Finally, the HPLC pointed out several typographical and technical drafting errors, which the Board has corrected.

IRRC Comments

IRRC concurred with the comments of the HPLC. IRRC raised three concerns related to adding definitions and practice by an unlicensed candidate. IRRC asked the Board to define “graduate registered nurse” and “graduate practical nurse.” As noted in the response to the HPLC comments, the Board has added these definitions.

IRRC asked that the Board review §§ 21.27 and 21.154 to determine whether these two existing provision will be necessary when the regulation is promulgated. These two sections were promulgated to permit a graduate nurse to practice for up to one year after completion of the nursing education program and before examination. § 21.27 was promulgated in 1983. (13 Pa. B. 2829 (September 17, 1983)). § 21.154 was also promulgated in 1983. (13 Pa. B. 2061 (July 1, 1983)). These sections were promulgated before the General Assembly provided for temporary practice permits by enacting section 4.1 of the Professional Nursing Law (63 P.S. §§ 214 and 214.1) by Act 109 of December 20, 1985, P.L. 409 and section 3.1 of the Practical Nurse Law (63 P.S. §§ 653 and 653.1) by Act 110 of December 20, 1985, P.L. 423. In order to avoid any confusion that may arise regarding whether a graduate nurse must have a temporary practice permit in order to practice before obtaining a license, the Board will strike §§ 21.27 and 21.154. Subsection (2) of each of those sections, which defined the type of supervision under which a graduate nurse might practice, will be added to the final rulemaking by adding to §§ 21.7(a) and 21.149(a).

IRRC stated that the Board’s regulation needs to address the fact that existing regulations require that unlicensed graduate nurses practice under the supervision of another nurse. The requirement that an unlicensed graduate nurse practice only under the supervision of another nurse is set forth in section 4(4) of the Professional Nursing Law (63 P.S. § 214(4)) and section 3(5) of the Practical Nurse Law (63 P.S. § 653(5)), and is restated in the Board’s regulation at § 21.154. The Board does not believe it is necessary to restate the statutory provision in another regulation. Graduate nurses may not practice without a temporary practice permit and may only practice utilizing a temporary practice permit under supervision.

IRRC asked the Board to replace “and” with “to the” in both subsections (a) to denote the period between completion of the educational program and notification of examination results. The Board has made this change.

IRRC asked the Board to explain why a graduate nurse would be allowed to practice for 9 months before needing to apply for the licensure examination. The Board is constrained by its authorizing legislation to permit individuals to practice prior to passing the licensure examination. The General Assembly, in 1985, added provisions to the nursing law allowing individuals to practice with a temporary practice permit for up to 1 year from the date of graduation to the date the individual receives results of the licensure examination and for up to 1 year from the date the individual applies for licensure by reciprocity. The Board has shortened the time to 9 months to

allow time for processing of the licensure application to ensure a seamless transition in practice between the temporary permit and licensure.

IRRC raised two concerns with subsections (a)(3) and (b)(4) pertaining to both §§ 21.7 and 21.149. First, IRRC suggested that the Board should include a time limit for extensions or a statement that the Board will notify the applicant in writing of the time limit for each case. Second, IRRC asked what documentation would be required to evidence extreme hardship. The Board determines requests for extensions of temporary practice permits on a case-by-case basis and has, for years, responded to requests for extension by letter addressed to the requestor. The Board either denies the request for extension or grants the extension for a specified period of time from the date of the request. The Board believes it is not necessary to state in the regulation that the Board will respond to requests for extension and that extensions, if granted, will be based on the individual circumstances of each requestor, thus varying in length for each individual requestor. The Board cannot speculate on all of the types of documentation that might be submitted to demonstrate extreme hardship, and thus chose not to create a partial list. Documentation of extreme hardship might include military orders and discharge papers.

regarding currently-licensed nurses, IRRC again questioned why individuals are allowed to practice for approximately 9 months before they are required to supply the necessary documentation for licensure. The Board is attempting to effectuate the statute in an efficient manner. The problem faced by the Board, and addressed by this regulation, is that it had become commonplace for currently licensed nurses to request an extension of their temporary practice permit within 1 week of the date the TPP was set to expire, without having submitted any supporting documentation for licensure. Prior to drafting this rulemaking, the Board was reviewing 20 to 30 requests for extensions at each of its monthly meetings. The time limits in the regulation correspond to the Board's processing time.

IRRC made several comments under a heading of miscellaneous clarifications. IRRC suggested that the rulemaking be placed in the "Licensure" section of the Board's regulations rather than under "General Provisions." TPPs are not a form of a license; therefore, the Board believes the regulation is properly placed.

IRRC also noted inconsistencies in the Board's use of the term "physician" and "treating physician." The Board has chosen to use the term "treating physician." IRRC pointed out an incorrect reference to the fee section, which has also been corrected. IRRC noted that subsection (b)(7) incorrectly referenced paragraphs (2)-(5) instead of (2)-(6), which has been corrected.

IRRC noted that §§ 21.7(b)(5) and 21.149(a)(3), unlike §§ 21.7(a)(3) and 21.149(b)(5) do not include the criteria for illness or extreme hardship and questioned whether this was an error. The Board intends that extensions only be granted because of illness or extreme hardship and has added this language where missing.

Similarly, IRRC noted a discrepancy with the use of “will” and “may” in §§ 21.7(b) and 21.149(b). The Board has conformed the sections and used the discretionary word “may.”

Statutory Authority

The final rulemaking is authorized under sections 2.1(k) and 4.1 of the Professional Nursing Law (act) (63 P.S. §§ 212.1(k) and 214.1) and sections 3.1 and 17.6 of the Practical Nurse Law (63 P.S. §§ 653.1 and 667.6).

Fiscal Impact and Paperwork Requirements

The final rulemaking will have no adverse fiscal impact on the Commonwealth, its political subdivisions or the public. The final rulemaking will not impose additional paperwork requirements upon the Board, political subdivisions or the public.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 6, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 4897, to IRRC and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, the final-form rulemaking was approved by the HPLC. On _____, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The State Board of Nursing finds that:

- (1) Public notice of intention to adopt these amendments has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201-1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1-7.2.
- (2) A public comment period was provided as required by law and no comments were received.
- (3) That the amendments made to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published at 34 Pa. B. 4897.
- (4) This final-form rulemaking is necessary and appropriate for the administration of the Professional Nursing Law and Practical Nurse Law.

Order

The Board therefore ORDERS that:

- (A) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending §§ 21.1, 21.7, 21.141 and 21.149, to read as set forth in Annex A.
- (B) The Board shall submit a copy of this order and Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.
- (C) The Board shall certify this order and Annex and shall deposit them with the Legislative Reference Bureau as required by law.
- (D) This order shall take effect immediately upon publication in the Pennsylvania Bulletin.

Joanne Sorensen, RN, MS
Chairman, State Board of Nursing

ANNEX A

TITLE 49. PROFESSIONAL LICENSURE AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.1. Definitions.

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

GRADUATE REGISTERED NURSE – AN INDIVIDUAL WHO HAS GRADUATED FROM AN APPROVED PROGRAM OF PROFESSIONAL NURSING IN THE COMMONWEALTH OR A COMPARABLE PROGRAM IN ANY OTHER STATE.

§ 21.7 Temporary practice permits.

- (a) A GRADUATE REGISTERED NURSE MAY ONLY PRACTICE PROFESSIONAL NURSING UNDER SUPERVISION AND IF THE GRADUATE REGISTERED NURSE HOLDS A CURRENT TEMPORARY PRACTICE PERMIT. "SUPERVISION" MEANS THAT

A LICENSED REGISTERED NURSE IS PHYSICALLY PRESENT IN THE AREA OR UNIT WHERE THE GRADUATE REGISTERED NURSE IS PRACTICING. The Board may grant a temporary practice permit to a graduate registered nurse as follows.

- (1) An individual who wishes to practice as a graduate registered nurse during the period from the date of completion of a ~~Board approved~~ THE educational program ~~and~~ TO THE notification of the results of the licensing examination shall submit an application for a temporary practice permit for a graduate registered nurse on a form provided by the Board and remit the fee specified in § 21.5 (relating to fees). A temporary practice permit granted under this section is valid for up to 1 year from the date of issuance, UNLESS EXTENDED UNDER PARAGRAPHS (3) AND (4), ~~and~~ immediately expires if the applicant fails the licensing examination.
- (2) At least 90 days prior to the expiration date of the temporary practice permit, the graduate registered nurse shall:
 - (i) Submit an application for licensure by examination as a registered nurse.
 - (ii) Remit the fee specified in § 21.5.

- (iii) Submit the licensure examination registration form and fee required to the professional testing organization.
 - (3) At least 60 days prior to the expiration date of the temporary practice permit, the graduate registered nurse who wishes to extend the expiration date of the temporary practice permit because of illness or extreme hardship shall:
 - (i) Submit an application for temporary practice permit extension on a form provided by the Board.
 - (ii) Remit the fee specified in § 21.5.
 - (iii) Provide a detailed, written explanation of the reason the extension is requested. If requesting an extension due to illness, the applicant shall provide certification of the illness from the applicant's treating physician.
 - (4) The Board will not grant an extension to an individual who fails to meet the requirements of paragraphs (2) and (3).
- (b) The Board may grant a temporary practice permit to AN INDIVIDUAL WHO HOLDS A CURRENT REGISTERED NURSE LICENSE ISSUED BY ANY OTHER STATE, TERRITORY OR POSSESSION OF THE UNITED STATES OR CANADA ("a currently-licensed registered

nurse”)-as follows. THE TEMPORARY PRACTICE PERMIT WILL EXPIRE IN 1 YEAR, UNLESS THE INDIVIDUAL FAILS THE LICENSURE EXAMINATION, IN WHICH CASE THE TEMPORARY PRACTICE PERMIT WILL IMMEDIATELY EXPIRE. THE BOARD MAY EXTEND THE TEMPORARY PRACTICE PERMIT PERIOD IN CASES OF ILLNESS OR EXTREME HARDSHIP, AS SET FORTH IN PARAGRAPH (5).

(1) An individual who holds a current registered nurse license issued by any other state, territory or possession of the United States or Canada and A CURRENTLY-LICENSED REGISTERED NURSE who wishes to practice professional nursing during the period from the date of submission of Form 1 THE APPLICANT DATA SHEET of the application for licensure until the Board makes a determination on the application for licensure or 1 year, whichever comes first, shall:

(i) Submit an application for temporary practice permit for a currently-licensed registered nurse on a form provided by the Board.

(ii) Remit the fee specified in § 21.5.

- (2) An individual applying for a temporary practice permit for a currently-licensed registered nurse shall demonstrate proficiency in English by submitting proof that the individual's nursing education program was conducted in English or that the individual has received a passing score on a Board-approved English proficiency examination. A list of Board-approved English proficiency examinations is available upon request to the Board. This information must be submitted with ~~Form 1~~ THE APPLICANT DATA SHEET of the application for licensure.
- (3) Within 45 days of the date the temporary practice permit is issued, an individual who has been granted a temporary practice permit for a currently-licensed registered nurse shall submit ~~Form 2~~ THE VERIFICATION OF LICENSURE FORM of the application for licensure and shall:
- (i) Request verification of licensure from the foreign jurisdiction and retain documentation of the submission of the request to provide to the Board upon request.
 - (ii) Request certification of the applicant's nursing education program from the licensing board or appropriate educational authorities. The certification of nursing education must be submitted to the Board in English

directly from the appropriate educational authorities. The applicant shall retain documentation of the submission of the request to provide to the Board upon request.

(iii) Submit the Commission on Graduates of Foreign Nursing Schools (CGFNS) application if the applicant is required to meet CGFNS requirements in §§ 21.23(c) and 21.28(c) (relating to qualifications of applicant for examination; and licensure by endorsement) and retain documentation of the submission of the CGFNS application to provide to the Board upon request.

(iv) If the applicant is required to take the licensure examination, submit the licensure examination registration form and fee required to the professional testing organization and retain documentation of the submission of the application to take the examination to provide to the Board upon request.

(4) An individual who has been granted a temporary practice permit for a currently-licensed registered nurse shall ensure that all documentation in support of the application for licensure is received by the Board no later than 90 days prior to the expiration date of the temporary practice permit. Any individual whose

supporting documentation has not been received by the Board at least 90 days prior to the expiration date of the temporary practice permit shall submit, within 10 days of receiving notice of the deficiency from the Board, a detailed written explanation of why the supporting documentation has not been supplied to the Board in a timely manner.

(5) An individual who has been granted a temporary practice permit for a currently-licensed registered nurse and who has complied with paragraphs (2) – (4) may request an extension of their temporary practice permit BECAUSE OF ILLNESS OR EXTREME HARDSHIP by:

(i) Submitting a temporary practice permit extension application provided by the Board.

(ii) Remitting the fee specified in § 21.5.

(iii) Submitting a written, detailed explanation of the reasons the extension is requested. If requesting an extension due to illness, the applicant shall provide certification of the illness from the applicant's TREATING physician.

(iv) Providing proof of the timely request for verification of licensure referenced in paragraph (3)(i).

- (6) The request for temporary practice permit extension must be submitted to the Board no less than 60 days prior to the expiration date of the temporary practice permit.
- (7) The Board will not grant an extension to an individual who fails to meet the requirements of paragraphs (2) – (56).

~~§ 21.27. Unlicensed candidate.~~

~~—The candidate may practice as a graduate nurse until the licensing examination is passed subject to the following:~~

~~(1) — Unless licensed, the candidate may be employed as a graduate nurse for 1 year only form the date of completion of a nursing program except in the case where special permission is granted by the Board due to extenuating circumstances. In such a case the candidate shall present validating documentation.~~

(2) ~~The candidate shall practice under the supervision of an experienced registered nurse. “Supervision,” as used in this paragraph, means that the registered nurse is physically present in the area or unit where the unlicensed candidate is practicing.~~

* * *

Subchapter B. PRACTICAL NURSES

GENERAL PROVISIONS

* * *

§ 21.141. Definitions.

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

GRADUATE PRACTICAL NURSE – AN INDIVIDUAL WHO HAS GRADUATED FROM AN APPROVED PROGRAM OF PRACTICAL NURSING IN THE COMMONWEALTH OR A COMPARABLE PROGRAM ANY OTHER STATE.

§ 21.149. Temporary practice permits.

(a) A GRADUATE PRACTICAL NURSE MAY ONLY PRACTICE PRACTICAL NURSING UNDER SUPERVISION AND IF THE GRADUATE PRACTICAL NURSE HOLDS A CURRENT TEMPORARY PRACTICE PERMIT. "SUPERVISION" MEANS THAT A LICENSED REGISTERED NURSE IS PHYSICALLY PRESENT IN THE AREA OR UNIT WHERE TH GRADUATE PRACTICAL NURSE IS PRACTICING. The Board may grant a temporary practice permit to a graduate practical nurse as follows.

- (1) An individual who wishes to practice as a graduate practical nurse during the period from the date of completion of a THE Board-approved educational program and TO THE notification of the results of the licensing examination shall submit an application for temporary practice permit for a graduate practical nurse on a form provided by the Board and remit the fee specified in § 21-521.147 (relating to fees). A temporary practice permit granted under this section is valid for up to 1 year from the date of issuance UNLESS EXTENDED UNDER PARAGRAPHS (3) – (4), and immediately expires if the applicant fails the licensing examination.
- (2) At least 90 days prior to the expiration date of the temporary practice permit, the graduate practical nurse shall:

 - (i) Submit an application for licensure by examination as a practical nurse.
 - (ii) Remit the fee specified in § 21-521.147.
 - (iii) Submit the licensure examination registration form and fee required to the professional testing organization.
- (3) At least 60 days prior to the expiration date of the temporary practice permit, the graduate practical nurse who wishes to extend

the expiration date of the temporary practice permit BECAUSE OF ILLNESS OR EXTREME HARDSHIP shall:

- (i) Submit an application for temporary practice permit extension on a form provided by the Board.
- (ii) Remit the fee specified in § ~~21.521~~.147.
- (iii) Provide a detailed, written explanation of the reasons the extension is requested. If requesting an extension due to illness, the applicant shall provide certification of the illness from the applicant's TREATING physician.

- (4) The Board will not grant an extension to an individual who fails to meet the requirements of paragraphs (2) and (3).

(b) The Board ~~will~~ MAY grant a temporary practice permit TO AN INDIVIDUAL WHO HOLDS A CURRENT PRACTICAL NURSE LICENSE ISSUED BY ANY OTHER STATE, TERRITORY OR POSSESSION OF THE UNITED STATES OR CANADA ~~for~~ (“a currently-licensed practical nurse.”). THE TEMPORARY PRACTICE PERMIT WILL EXPIRE IN 1 YEAR, UNLESS THE INDIVIDUAL FAILS THE LICENSURE EXAMINATION, IN WHICH CASE THE TEMPORARY PRACTICE PERMIT WILL IMMEDIATELY EXPIRE. THE BOARD MAY EXTEND THE TEMPORARY

PRACTICE PERMIT IN CASES OF ILLNESS OR EXTREME HARDSHIP, AS
SET FORTH IN PARAGRAPH (5).

- (1) An individual who holds a current practical nurse license issued by any other state, territory or possession of the United States or Canada and A CURRENTLY-LICENSED PRACTICAL NURSE who wishes to practice practical nursing during the period from the date of submission of Form 1 THE APPLICANT DATA SHEET of the application for licensure until the Board makes a determination on the application for licensure or 1 year, whichever comes first, shall:
 - (i) Submit an application for temporary practice permit for a currently-licensed practical nurse on a form provided by the Board.
 - (ii) Remit the fee specified in § 21.521.147.
- (2) An individual applying for a temporary practice permit for a currently-licensed practical nurse shall demonstrate proficiency in English by submitting proof that the individual's nursing education program was conducted in English or that the individual has received a passing score on a Board-approved English proficiency examination. A list of Board-approved English proficiency

examinations is available upon request to the Board. This information shall be submitted with ~~Form 1~~ THE APPLICANT DATA SHEET of the application for licensure.

(3) Within 45 days of the date the temporary practice permit is issued, an individual who has been granted a temporary practice permit for a currently-licensed practical nurse shall submit ~~Form 2~~ THE VERIFICATION OF LICENSURE FORM of the application for licensure and shall:

(i) Request verification of licensure from the foreign jurisdiction and retain documentation of submission of the request to provide to the Board upon request.

(ii) Request certification of the applicant's nursing education program from the licensing board or appropriate educational authorities. The certification of nursing education shall be submitted to the Board in English directly from the appropriate educational authorities. The applicant shall retain documentation of submission of the request to submit to the Board upon request.

(iii) Submit the Commission on Graduates of Foreign Nursing Schools (CGFNS) application if the applicant is required to

meet CGFNS requirements set forth in § 21.155(d)
(relating to licensure by endorsement) and retain
documentation of the submission of the CGFNS application
to provide to the Board upon request.

(iv) If the applicant is required to take the licensure
examination, submit the licensure examination registration
form and fee required to the professional testing
organization and retain documentation of the submission of
the application to take the examination to provide to the
Board upon request.

(4) An individual who has been granted a temporary practice permit
for a currently-licensed practical nurse shall ensure that all
documentation in support of the application for licensure is
received by the Board at least 90 days prior to the expiration date
of the temporary practice permit. An individual whose supporting
documentation has not been received by the Board at least 90 days
prior to the expiration date of the temporary practice permit shall
submit, within 10 days of receiving notice of the deficiency from
the Board, a detailed written explanation of why the supporting
documentation has not been supplied to the Board in a timely
manner.

- (5) An individual who has been granted a temporary practice permit for a currently-licensed practical nurse and who has complied with paragraphs (2) – (4) may request an extension of the temporary practice permit because of illness or extreme hardship by:
- (i) Submitting a temporary practice permit extension application on a form provided by the Board.
 - (ii) Remitting the fee specified in § ~~21.521.147~~.
 - (iii) Submitting a written, detailed explanation of the reasons the extension is requested. If requesting an extension due to illness, the applicant shall provide certification of the illness from applicant's treating physician.
 - (v) Providing proof of the timely request for verification of licensure referenced in paragraph (3)(i).
- (6) The request for temporary practice permit extension must be submitted to the Board at least 60 days prior to the expiration date of the temporary practice permit.
- (7) The Board will not grant an extension to an individual who fails to meet the requirements of paragraphs (2) – ~~(56)~~.

~~§ 21.154. Unlicensed candidate.~~

~~The candidate may practice as a graduate practical nurse until the examination is passed subject to the following:~~

- ~~(1) Unless licensed, the candidate may be employed as a graduate practical nurse for 1 year only from completion of the program except in the case where special permission is granted by the Board due to extenuating circumstances. In such a case the candidate shall present validating documentation.~~
- ~~(2) The candidate shall practice under the supervision of an experienced registered nurse. Supervision is defined to mean that the registered nurse is physically present in the area or unit where the unlicensed graduate is practicing.~~



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

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March 16, 2006

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101


Re: Final Regulation
State Board of Nursing
16A-5121: Temporary Practice Permits

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Nursing pertaining to Temporary Practice Permits. The Board did not receive any public comments on the rulemaking.

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

Sincerely,


Joanne L. Sorensen, RN, MS, Chair
State Board of Nursing

JLS:TLM:apm

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Department of State
Teresa Lazo Miller, Counsel
State Board of Nursing
State Board of Nursing

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

I.D. NUMBER: 16A-5121
SUBJECT: State Board of Nursing: Temporary Practice Permits
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

INDEPENDENT REGULATORY
REVIEW COMMISSION

2007 MAR 16 AM 10:00

RECEIVED

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3/16/06	<i>Sandra L. Hays</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
3/16/06	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
3/16	<i>J. Helms</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

February 15, 2006