

# Regulatory Analysis Form

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

(1) Agency

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

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

16A-4314

IRRC Number: 2626

(3) Short Title

**Reactivation of Lapsed License**

(4) PA Code Cite

49 Pa. Code § 5.17(m)

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Thomas A. Blackburn, Counsel,**  
**State Board of Chiropractic**  
**(717) 783-7200**

Secondary Contact: **Joyce McKeever, Deputy Chief**  
**Counsel, Department of State (717) 783-7200**

(6) Type of Rulemaking (check one)

- Proposed Rulemaking**  
 **Final Order Adopting Regulation**  
 **Policy Statement**

(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 non-technical language.

**This proposed rulemaking would replace § 5.17(m) to provide that a chiropractor whose license has been inactive for over 5 years may reactivate that license by (i) successfully completing all parts of the national board examination within 1 year of reactivation, (ii) qualifying for licensure by reciprocity from another state, (iii) having continuously practiced chiropractic for at least 5 years in another jurisdiction, or (iv) successfully completing the special purpose examination in chiropractic.**

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

**The rulemaking is adopted under sections 302(3) and 501(b) of the Chiropractic Practice Act (63 P.S. §§ 625.302(a) and 625.501(b)).**

(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.

## Regulatory Analysis Form

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

**A chiropractor whose license has been inactive for more than 5 years is required by section 501(b) of the Chiropractic Practice Act (63 P.S. § 625.501(b)) to apply anew for a license to practice chiropractic. The Board's current regulations recognize only licensure by examination or by reciprocity. Unless also licensed in a state that has reciprocity with Pennsylvania, a chiropractor licensed in Pennsylvania before all four parts of the national board examination were required would have to take all parts of the examination, and a chiropractor licensed after all four parts were required would have no examination to take, in order to reactivate after 5 years. Unless the chiropractor currently qualifies for licensure by examination, a chiropractor who has been practicing in a state that does not have reciprocity with Pennsylvania would not be able to reactivate after 5 years of inactivity.**

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

**Without amending the Board's regulations, a Pennsylvania-licensed chiropractor who is qualified to practice could be required to either go through all licensure examinations again or become licensed in another state that has reciprocity with Pennsylvania in order to reactivate after a period of inactivity of 5 years or more.**

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

**Those licensed chiropractors who seek reactivation after 5 years will benefit from the proposed rulemaking, because it provides additional bases upon which to reactivate the license. Less than a dozen licensees each year seek to reactivate after 5 years.**

(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 identified no persons that will be adversely affected by the proposed rulemaking.**

(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 licensed chiropractors in this Commonwealth will be required to comply with the proposed rulemaking. Approximately 3,920 chiropractors hold an active license to practice chiropractic in this Commonwealth.**

## Regulatory Analysis Form

(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 Board did not solicit input from or provide an exposure draft of this proposed rulemaking to interested parties. However, the proposed rulemaking was extensively discussed at public meetings of the Board which are routinely attended by members of the regulated community and their professional associations.**

(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.

**There are no costs to members of the regulated community associated with compliance with the rulemaking. There should be an unquantifiable savings for those few members of the regulated community who will be able to reactivate after 5 years without having to retake examinations or obtain licensure in another state.**

(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 compliance with the rulemaking.**

(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 associated with implementation of the rulemaking.**

(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
<b>SAVINGS:</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>						

## Regulatory Analysis Form

REVENUE	N/A	N/A	N/A	N/A	N/A	N/A
LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue						
Losses						

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

**Not applicable.**

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

Program	FY-3 (FY 03-04)	FY-2 (FY 04-05)	FY-1 (FY 05-06)	Current FY (FY 06-07)
Pa. State Board of Chiropractic	\$360,000	\$391,000	\$430,000	\$502,000

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

**No adverse effects or costs have been associated with compliance with the rulemaking. Therefore, the above-identified benefits would outweigh any cost.**

(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 determined that the current regulatory scheme was inadequate, requiring regulatory action.**

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

**No alternative regulatory schemes were considered.**

(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.

**The proposed rulemaking does not overlap or conflict with any federal requirements.**

## Regulatory Analysis Form

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

**A chiropractor whose license to practice in Delaware has been inactive for more than 1 year must meet the current requirements for obtaining a new license, whether by examination or by reciprocity based upon licensure in another state. A chiropractor whose license to practice in Maryland has been inactive for more than 5 years must meet the current requirements for obtaining a new license, whether by examination or waiver of examination if licensed in another state. A chiropractor whose license to practice in New Jersey has been inactive for more than 5 years must successfully complete all required licensure examinations in order to reactivate. A chiropractor whose license to practice in New York has been inactive must complete at least one additional hour of continuing education for each month of lapse. The Ohio State Chiropractic Board may require a licensee whose license has been inactive for more than 2 years to obtain training or pass examinations as a condition of reactivation. A chiropractor whose license to practice in West Virginia has been inactive for more than 2 years must meet the current requirements for licensure and may be required to complete the special purpose examination in chiropractic.**

**The proposed rulemaking will not put Pennsylvania at a competitive disadvantage.**

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

**This rulemaking will have no effect on other 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 reviews its regulatory proposals at regularly scheduled public meetings, generally the third Thursday of each odd-numbered month. More information can be found on the Board's website (<http://www.dos.state.pa.us/chiro>), or by calling the Board office at (717) 783-7155.**

(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.

**The Board has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.**

## Regulatory Analysis Form

(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 rulemaking will be effective upon publication of the final form rulemaking in the Pennsylvania Bulletin.**

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

**The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1.**

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

2626

DO NOT WRITE IN THIS SPACE

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

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

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

*Anthony M. Elliott*  
BY: \_\_\_\_\_

(DEPUTY ATTORNEY GENERAL)

JUL 11 2007

DATE OF APPROVAL

State Board of Chiropractic

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-4314

*Andrew C. Clark*  
BY: \_\_\_\_\_

Andrew C. Clark

JUN 12 2007

DATE OF APPROVAL

DATE OF ADOPTION:

*Jonathan W. McCullough*  
BY: \_\_\_\_\_

Jonathan W. McCullough, DC

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

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

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] 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 CHIROPRACTIC

49 Pa. CODE § 5.17 (m)  
REACTIVATION OF LAPSED LICENSE

The State Board of Chiropractic (Board) proposes to amend § 5.17 (relating to biennial registration; unregistered status and inactive status; failure to renew; address of record), to read as set forth in Annex A.

#### Effective date

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

#### Statutory Authority

The amendments are authorized under sections 302(3) and 501(b) of the Chiropractic Practice Act (act) (63 P.S. §§ 625.302(3) and 625.501(b)).

#### Background and Need for the Amendment

Under section 501(b) of the act (63 P.S. § 625.501(b)), a chiropractor's license must be renewed biennially, and a licensee "who has failed to renew his license for period of longer than five years shall be required to apply for a license in accordance with subsection (a) if he desires to resume practicing chiropractic." Currently, § 5.17(m) (relating to biennial registration; unregistered status and inactive status; failure to renew; address of record) requires a licensee whose license has been inactive for more than 5 years to apply for licensure in accordance with § 5.12 (relating to licensure by examination) or § 5.13 (relating to licensure by reciprocity). Each of these two bases for reactivation, however, has significant administrative limitations or drawbacks that make it inadequate.

Since 1997, the Board has required applicants for licensure by examination to successfully complete all four parts of the national board examination of the National Board of Chiropractic Examiners (NBCE). An inactive licensee who had not previously taken all parts of the exam was required to take the missing parts in order to reactivate the licensee's license. However, as it has now been more than 5 years since the end of the first renewal period during which applicants were first required to successfully complete all parts of the examination, some applicants who have been inactive for more than 5 years have already completed all four parts of the examination. Thus, there are no "missing parts" of the examination for those inactive licensees to take in order to demonstrate current competence.

Additionally, a common reason for a licensee to have been inactive for more than 5 years is that the licensee has been practicing in another state. However, reciprocity under § 5.13 is not available to licensees from every state. In proposing this rulemaking, the Board has attempted to make reactivation administratively simple, while assuring that a licensee is competent to practice chiropractic after a period of inactivity.

### Description of the Proposed Amendments

The proposed rulemaking would replace § 5.17(m). A licensee whose license has been inactive for more than 5 years would be permitted to demonstrate competence to resume practice on any of four bases. First, as it is the standard for licensure by examination, a licensee who has successfully completed all parts of the required examination within the year prior to applying for reactivation would be permitted to reactivate. Second, the Board would continue permitting reactivation by qualifying for licensure by reciprocity in accordance with § 5.13. Third, because a licensee who left Pennsylvania and has practiced in another jurisdiction should be as qualified to practice chiropractic today as a licensee who has remained in Pennsylvania, the Board would permit reactivation upon a showing of at least 5 years of continuous licensed practice of chiropractic in another jurisdiction immediately preceding application for reactivation. Finally, successful completion, within 6 months prior to applying for reactivation, of the special purpose examination in chiropractic, which is also offered by the NBCE and often used to demonstrate competence to practice, would be a basis to qualify for reactivation.

### Fiscal Impact and Paperwork Requirements

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

### Sunset Date

The Board continuously monitors the 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 15 August, 2007, 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 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 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 Deborah L. Smith, Administrator, State Board of Chiropractic, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-4314 (Reactivation of Lapsed License), when submitting comments.

Jonathan W. McCullough, DC  
Chairperson

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 13. STATE BOARD OF CHIROPRACTIC**

\* \* \* \* \*

**Subchapter B. LICENSURE, CERTIFICATION, EXAMINATION AND**

**REGISTRATION PROVISIONS**

\* \* \* \* \*

**§ 5.17. Biennial registration; unregistered status and inactive status; failure to renew; address of record.**

\* \* \* \* \*

(m) [If a licensee's license has been placed on inactive status for longer than 5 years, in addition to the statutory requirements of section 501(a) of the act (63 P.S. § 625.501(a)), the Board will require that a personal interview be conducted to ascertain the licensee's ability to practice with reasonable skill and safety to patients and the licensee's knowledge of the requirements of the act, this chapter and other pertinent health laws of this Commonwealth. If the licensee's license has been placed on inactive status for more than 5 years, the licensee shall apply for licensure in accordance with § 5.12 or § 5.13 (relating to licensure by examination; and licensure by reciprocity).] To reactivate a license that has been inactive for more than 5 years, the licensee shall establish current competence to practice by at least one of the following:

(1) Successful completion of the examinations required by § 5.15(a) (relating to licensure examinations) within 1 year prior to application for reactivation.

(2) Compliance with § 5.13 (relating to licensure by reciprocity).

(3) Proof of continuous licensed practice of chiropractic in one or more other jurisdictions of the United States or Canada for no less than 5 years immediately preceding application for reactivation.

(4) Successful completion of the following examinations within 6 months prior to application for reactivation:

(i) The examination required by § 5.15(a)(2).

(ii) The Special Purpose Examination in Chiropractic administered by the National Board of Chiropractic Examiners.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE

**DATE:** March 29, 2007

**SUBJECT:** Proposed Rulemaking:  
State Board of Chiropractic  
Reactivation of Lapsed License (16A-4314)

**TO:** Andrew C. Clark, Deputy General Counsel  
Office of General Counsel

**FROM:** Thomas A. Blackburn, Counsel *TAB*  
State Board of Chiropractic

There are no significant legal and policy issues, other than as discussed in the preamble, presented by this proposed rulemaking of the State Board of Chiropractic regarding Reactivation of Lapsed License. The proposed rulemaking sets forth standards by which a licensee whose license has been inactive for more than five years may demonstrate current competence to resume practice.

I certify that I have reviewed this regulation for form and legality, that I have discussed any legal and policy issues with the administrative officers responsible for the program, and that all information contained in the Preamble and Annex is correct and accurate.

TAB



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF CHIROPRACTIC  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7155

August 15, 2007

The Honorable Arthur Coccodrilli, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Chiropractic  
16A-4314: Reactivation of Lapsed License

Dear Chairman Coccodrilli:

Enclosed is a copy of a proposed rulemaking package of the State Board of Chiropractic pertaining to Reactivation of Lapsed License.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan W. McCullough, DC".

Jonathan W. McCullough, DC, Chairperson  
State Board of Chiropractic

JWD/TAB:rs

Enclosure

cc: Basil L. Merenda, Commissioner  
Bureau of Professional and Occupational Affairs  
Albert H. Masland, Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
and Senior Counsel in Charge  
Department of State  
Thomas A. Blackburn, Counsel  
State Board of Chiropractic  
State Board of Chiropractic

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 16A-4314  
SUBJECT: Reactivation of Lapsed License - BPOA State Board of Chiropractic  
AGENCY: DEPARTMENT OF STATE

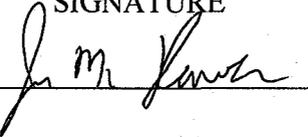
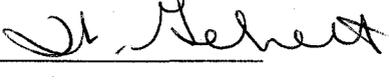
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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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
8/15/07		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
8-15-07		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
8/15/07		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
8/15/07		LEGISLATIVE REFERENCE BUREAU (for Proposed only)