

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

INDEPENDENT REGULATORY
REVIEW COMMISSION

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(1) Agency:

Pennsylvania Liquor Control Board

(2) Agency Number: 54

Identification Number: 60

IRRC Number: 2660

(3) Short Title:

Responsible Alcohol Management Program (RAMP)

(4) PA Code Cite:

40 Pa. Code, Chapter 5

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: James F. Maher (717) 783-9454
Pennsylvania Liquor Control Board
401 Northwest Office Building
Harrisburg, Pennsylvania 17124
FAX: (717) 787-8820
Email: ra-lblegal@state.pa.us

Secondary Contact: Christopher L. Herrington (717) 783-9454
(Same Contact Information)

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- ☐ Proposed Regulation
- ☒ Final Regulation
- ☐ Final Omitted Regulation

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- ☐ Emergency Certification Regulation;
☐ Certification by the Governor
☐ Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

RAMP has been established in the Board's Bureau of Alcohol Education ("BAE") since 2001. Through the program, the BAE has developed training materials, authorized trainers to instruct licensees and their employees regarding the responsible service of alcohol, and has provided a certification process for licensed establishments. These regulations will provide the public and the licensed community with a greater awareness of the resources available through the RAMP program; the licensee, manager and server/seller training standards that implement the statute authorizing the Board to establish RAMP; and how the certification and decertification process will be implemented.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: February 25, 2008
- B. The date or dates on which public meetings or hearings will be held: None
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: February 25, 2010
- D. The expected effective date of the final-form regulation: May 15, 2010
- E. The date by which compliance with the final-form regulation will be required: May 15, 2010
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

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

Review of the regulations is ongoing and any changes to the regulation will be through the rulemaking process.

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SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Pennsylvania Liquor Code, sections 207(i) and 471.1 [47 P.S. §§ 2-207(i), 4-471.1].

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Section 471.1 of the Liquor Code [47 P.S. § 4-471.1] requires the Board to promulgate regulations to implement the intent of this section. Other than the aforesaid section of the Liquor Code, the regulations are not mandated by any federal or state law, court order or federal regulation.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulations are authorized by 47 P.S. § 4-471.1, which statute defined the outlines of RAMP training and certification. The public interest is best served by offering training to licensees of the Board and their server/sellers. These regulations organize and provide structure to RAMP training as well as the certification and decertification process. The public, in general, and perhaps more immediately, the neighbors of licensed establishments, will benefit from the practical and legal training that the Board's Bureau of Alcohol Education ("BAE") provides through these regulations to licensees and their employees.

The rulemaking will affect retail and wholesale licensees and applicants for certification as instructors. There are approximately 15,000 active licenses in Pennsylvania that authorize the sale and service of alcohol for on-premises consumption, known collectively as retail licensees. There are 1,315 licensed distributors and importing distributors of malt or brewed beverages such as beer, constituting wholesale licensees. Each of these licensees may benefit from RAMP training. Since its inception, over 111,000 individuals have received server/seller training.

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When a licensee obtains RAMP certification in accordance with these regulations, it becomes eligible for a reduction in fines that an Administrative Law Judge may assess, pursuant to section 471(b) of the Liquor Code. [47 P.S. § 4-471(b)]. Savings to the regulated community would be realized by a licensee that becomes subject to an administrative sanction by an Administrative Law Judge. In such cases, the reduction in fines for RAMP certification would be from \$1000-\$5000 to \$50-\$1000. In cases where an Administrative Law Judge requires a licensee to take responsible alcohol management training as part of a decision in a citation proceeding, the owner/manager training cost would be borne by the Board, and the licensee would bear all other costs of compliance.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

The Board has not relied on any scientific data, studies, or references to justify this regulation.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

There will be no adverse effects as a result of this regulation. The training program under Liquor Code section 471.1 has operated since 2001. Its activity has increased over the years. These regulations codify existing practices rather than impose new requirements on the regulated community. Individuals certified by the Board to be instructors of the server/seller training component of RAMP will be required to pay an annual fee of \$250.

(16) 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.

RAMP is a program primarily affecting licensees and their employees. Licensees may be required to attend responsible alcohol management classes conducted by the BAE because they were ordered to do so pursuant to an adjudication issued by an Administrative Law Judge. Moreover, a licensee may be required to participate in RAMP training because it agreed to undergo such training pursuant to the terms of a conditional licensing agreement entered into between the Board and the licensee. Further, a licensee may voluntarily choose to undergo RAMP training and certification to allow its owners, managers, servers, sellers and other employees to benefit from the Board's BAE instruction on the responsible service of alcoholic beverages.

Individuals and entities desiring to become instructors of the seller/server component of RAMP must meet minimum requirements, and apply annually for certification, at a cost of two hundred fifty dollars (\$250.00) per year. Currently, the Board deals with thirty-three (33) trainers who instruct students in server/seller training who may seek certification by the BAE under the new regulations, however it is

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unknown how many individuals and entities may eventually seek such certification.

The approximate number of licensees that will participate in RAMP, voluntarily or through a requirement imposed on them, cannot be determined at this time. From a historical standpoint, as of January 15, 2010, two thousand three hundred (2,300) licensees are certified under RAMP; since the inception of RAMP, three thousand eight hundred sixty-one (3,861) licensees have been RAMP-certified. A total of seven thousand five hundred fifty-nine (7,559) licensees have participated in the owner/manager trainings since the inception of RAMP; a total of seventeen thousand seven hundred sixty-nine (17,769) individuals have received instruction under the owner/manager trainings. A total of eight thousand two hundred (8,200) licensees have participated in the server/seller trainings since the inception of RAMP; a total of one hundred eleven thousand three hundred forty-eight (111,348) individuals have been instructed under the server/seller trainings.

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

The regulated community of Pennsylvania retail and wholesale licensees would not incur any costs or savings unless they utilize the RAMP program. If they participate, the server/seller training would typically cost the retail licensee \$25-\$40 per employee, based on a review of training fees across the country. The cost for owner/manager training is being borne by the Board; therefore, the cost is measured in time spent in training, which is approximately six hours.

Savings to the regulated community could be the reduction in administrative sanctions by an Administrative Law Judge in terms of reduced fines, i.e., from \$1,000-\$5,000 to \$50-\$1,000. In cases where an Administrative Law Judge requires a licensee to take responsible alcohol management training as part of an adjudication in a citation proceeding, the owner/manager training cost would be borne by the PLCB, and the licensee would bear all other costs of compliance.

(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. Explain how the dollar estimates were derived.

The regulation is not expected to have a cost or savings benefit to local governments.

Regulatory Analysis Form

(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. Explain how the dollar estimates were derived.

Like all of the Board's operating costs, RAMP is fully funded from the proceeds of selling liquor, which are deposited into the State Stores Fund; the Board's operations and programs are not funded from a General Fund appropriation. In the current fiscal year, the cost of the RAMP program to \$1,093,695. RAMP has been operating since 2001, so the estimates of future costs are drawn from actual expenditures for personnel and program costs. Accordingly, these are not new costs that will be incurred because of the implementation of these regulations. It should be noted that the projected costs presented in section (20) are approximated.

(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	0 (NOTE: Licensees currently qualify for reduced fines in certain cases if taking part in RAMP – this will continue under the regulations)	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0 (NOTE: The Board will obtain some additional revenue from certification fees to be	0	0	0	0	0

Regulatory Analysis Form

	paid by instructors)					
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	0 (NOTE: Licensees already pay instructors for receiving training under the server/seller component of RAMP – they will likely continue to do so under the new regulations)	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	\$1,093,695	\$1,200,393	\$1,317,499	\$1,446,030	\$1,587,100	\$1,741,932
Total Costs	\$1,093,695	\$1,200,393	\$1,317,499	\$1,446,030	\$1,587,100	\$1,741,932
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

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

Program	FY -3	FY -2	FY -1	Current FY
RAMP	\$793,448	\$881,182	\$996,482	\$1,093,695

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(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Training the holders of liquor licenses, like training the holders of driver's licenses, is an up-front cost that is recovered by improved performance. The benefits are impossible to quantify precisely. Creating incentives to become RAMP-certified makes the cost burden voluntary except where RAMP training is mandatory, as discussed above.

The regulation furthers the objectives of the statute enacted by the General Assembly. The current annual cost associated with the statute and these regulations is \$1,093,695.00

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

During the development of this regulation, members of the licensed community were consulted including the Pennsylvania Licensed Beverage Association (Tavern Association) and the Pennsylvania Restaurant Association. The Training on Intervention for Servers of Alcohol (TIPS) national program office was consulted regarding the change in the final-form regulations involving "providers" and "instructors." Finally, the University of Minnesota Alcohol Epidemiology Department and the Responsible Hospitality Institute, the Texas Alcohol Beverage Commission, the Oregon Liquor Control Board, a national licensee and a public health organization, were consulted on the substance of the regulations and the total program.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Non-regulatory alternatives were not considered because these regulations are required by section 471.1 of the Liquor Code.

(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 regulations.

Federal regulations do not address responsible alcohol management.

Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

This regulation is similar to regulations in several other states that provide an incentive to complete a responsible alcohol management program, including Oregon, Alabama, and Florida. Some states such as Maryland, Washington and Alaska require mandatory training. The regulation should not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect any other 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 Liquor Control Board or any other state agency.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The Board will be required to keep records of persons trained in owner/manager and server/seller training for the purpose of certifying licensees as being in compliance with the responsible alcohol management program. The Board will also keep records of instructors certified for the program. Participating retail licensees will be required to keep records of new employee training and server/seller training. There is also an application requirement for those licensees desiring to be certified as being in compliance with the responsible alcohol management program.

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

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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

BY _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

☐ Check if applicable
Copy not approved Objections
attached

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

Pennsylvania Liquor Control Board
(AGENCY)

DOCUMENT/FISCAL NOTE
NO 054- 60

DATE OF ADOPTION February 24, 2010

BY.  _____

TITLE Chairman
(Executive Officer, Chairman or
Secretary)

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

BY: 7SDiuh
Chief Counsel

February 24, 2010
DATE OF APPROVAL

☐ Check if applicable. No
Attorney General approval or
objection within 30 days after
submission.

TITLE 40—LIQUOR

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

The following Subchapter and sections (underlined) are added:

SUBCHAPTER I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

§ 5.201 Purpose

§ 5.202 Definitions

§ 5.211 Course of Study for Alcohol Service Personnel

§ 5.231 Instructor Certification

§ 5.232 Instructor Responsibilities

§ 5.233 Minimum Standards of Training

§ 5.241 Manager/Owner Training

§ 5.242. New Employee Orientation

§ 5.243 Records

§ 5.251 Prohibited Conduct

§ 5.261 Signs

§ 5.271 Premises Certification

RULEMAKING
LIQUOR CONTROL BOARD

40 PA. CODE CHAPTER 5

Responsible Alcohol Management Program

The Liquor Control Board (“Board”), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), amends Chapter 5.

Summary

This regulation implements section 471.1 of the Liquor Code. In 2000, the General Assembly authorized the Board to establish a training program for licensees. Pennsylvania expects holders of its liquor and beer licenses to meet demanding standards of operation, or face fines and other penalties that can culminate in the loss of the license. Training of licensees was seen to be one of the best ways to prevent these problems, and the legislation was the means to implement such training. The legislation was entitled “Responsible Alcohol Management,” and from this, the implementing program took its name: the Responsible Alcohol Management Program (“RAMP”). RAMP has been established in the Board’s Bureau of Alcohol Education (“BAE”) since 2001. The program has developed training materials, authorized instructors and has provided a certification process for licensed establishments. It is expected that these regulations will serve the public interest by (1) providing the public and the licensees with greater awareness of RAMP’s resources, (2) providing the licensed community with a clear statement of the licensee, manager and server training standards that implement the legislation’s intent, and (3) clarifying how the certification and decertification process for licensees is being implemented.

The following is a summary of the four (4) main sections of these implementing regulations:

- The rulemaking explains how instructors are approved to train retail licensees to manage their alcohol service more responsibly.
- It defines qualifications for certifying and decertifying instructors.

- It explains training of managers and owners and how managers must train new employees in order for a licensee to be “RAMP-certified.”
- The effect of RAMP certification is explained, as are the requirements for signs to be posted in the licensed premises.

Further, pursuant to section 4-471(f) of the Liquor Code [47 P.S. § 4-471(f)], licensees are to obtain certification upon the completion of a certified alcohol service personnel program or the Board’s owner/manager training program. Such certification shall be valid for two (2) years.

Originally, RAMP was primarily a voluntary program. The bill creating this program, 2000, Dec. 20, P.L. 992, No. 141 also created incentives for licensees to become “RAMP certified.” If a licensee was “RAMP certified,” and was adjudicated to have violated two (2) of the more serious violations of the Liquor Code (sales to minors or sales to visibly intoxicated persons), and if the licensee had no similar violations in the previous 4 years, the range of penalties to which the licensee would be subject would be reduced to a fine in the range of \$50 to \$1,000. Without RAMP certification, the range of penalties would be \$1,000 to \$5,000.

By Act 26 of 2006, Administrative Law Judges were enabled to make RAMP certification mandatory for those licensees adjudicated to have sold alcohol to minors or to visibly intoxicated persons. A citation may be issued if the licensee fails to comply with such an Administrative Law Judge’s order to complete RAMP training. Further, the Board’s Bureau of Licensing may object to a license renewal application on the basis that a licensee has failed to comply with the terms of an Administrative Law Judge’s order.

Moreover, a licensee may be required to participate in RAMP training because it agreed to undergo such training pursuant to the terms of a conditional licensing agreement entered into between the Board and the licensee. A licensee’s failure to undergo the training pursuant to the terms of a conditional licensing agreement may result in the issuance of a citation. Further, the Board’s Bureau of Licensing may object to a license renewal application on the basis that a licensee has failed to comply with the terms of a conditional licensing agreement

Finally, a licensee may voluntarily choose to undergo RAMP training and certification to allow its owners, managers, servers, sellers and other employees to benefit from the Board's BAE instruction on the responsible service of alcoholic beverages.

Before Act 141 of 2000, employees of the Board were the instructors, providing server/seller training. After the passage of Act 141, the decision was made by the Board to have approved independent instructors provide server/seller training. The Board planned to approve both the instructors and the training curriculum they would use. As the number of instructors increased, the administrative burden of approving a training curriculum for each one also increased, and became almost unmanageable. When these regulations were proposed, to deal with the increasing administrative workload, it was planned that instructors would receive a standardized, pre-approved training curriculum from a "provider." Providers would develop the training curriculum, have the Board approve it, and then provide administrative and clerical support to the instructors. However, this plan did not develop as originally intended.

The BAE's principal connection has been, and continues to be, with the individual instructors. The instructors prepare and present their curricula to the BAE for approval. Of the thirty-three (33) currently certified instructors, nine (9) have presented curricula that incorporate the national training program prepared by the organization "TIPS." Five (5) instructors have presented curricula that incorporate the training program prepared by the Tavern Association and two (2) have presented curricula that incorporate the national training program prepared by "ServSafe." The remaining seventeen (17) instructors have written their own curricula that are identified by various names of their own choosing.

As a result, there has been widespread confusion among licensees that are trying to obtain training with the aim of becoming "RAMP certified." Employees of the BAE are called by licensees to clarify the compliance of these training curricula with the requirements of RAMP. In the years since RAMP began operating, only two (2) entities have developed their own curricula and have provided administrative and clerical support to instructors: the Tavern Association and Ms. Tara Paster, who is also a certified instructor. As a result, between the time the proposed regulations were published for comment on January 26, 2008 [38 Pa.B. 499], and the

present, the procedure for training licensees and their servers/sellers has changed.

Since the proposed regulations were published, the BAE has developed a standard training curriculum for use by instructors, thereby eliminating the reliance on providers to develop such curricula for instructors. It should be noted that most instructors currently provide training without having a relationship with a particular provider. Further, nothing contained in the Liquor Code requires both “providers” and “instructors;” rather, section 4-471(b) merely provides that the Board is authorized to certify and decertify entities that wish to offer training for alcohol service personnel. In recognition of these policy changes, the sections of the proposed regulations (§§ 5.221 and 5.222) dealing with the qualifications of providers and the Board’s certification of providers have been withdrawn in the final-form regulations as no longer relevant. As required by statute, the BAE will continue to train managers and owners. [47 P.S. § 4-471.1(c)].

The final-form regulations provide that an instructor who fails to satisfactorily carry out the instructor’s responsibilities, as provided in proposed section 5.232, or fails to meet the Minimum Standards of Training, as provided in proposed section 5.230, would receive an “unacceptable evaluation” under proposed subsection 5.251(a)(9). Examples of conduct which would warrant such an unacceptable evaluation include, but are not limited to: failing to provide students with current and accurate information, failing to provide accurate records of attendance and course completion to the BAE, failing to conduct at least a two and a half (2½) hours of instructional time in each training, exceeding the ratio of students per instructor, and failing to properly administer the standardized test prepared by the BAE.

It should be noted that the proposed regulations contained the term “unsatisfactory,” which has been changed in the final regulations to the term “unacceptable.” This change was made to reflect the terminology used in BAE’s current evaluation form, which contains the following categories: Outstanding, Acceptable, Needs Improvement and Unacceptable.

Further, it should be noted that, whereas in the proposed regulations, the Board has the discretion to decertify instructors who received three (3) such “unsatisfactory” evaluations, the final-form regulations provide that the Board has the discretion to decertify instructors who receive one (1) or more

“unacceptable” evaluations. This was changed in light of the fact that the final-form regulations, as noted above, clearly put instructors on notice of the type of conduct which would warrant such an unacceptable evaluation from the BAE. Accordingly, the Board believes that an instructor having at least one (1) such unacceptable evaluation is sufficient to allow the Board to evaluate whether that instructor should be decertified.

Finally, it should be noted that the duration of an instructor’s certification has been modified in the final-form regulations from a period of two (2) years to a period of one (1) year in subsection 5.231(3). This has been changed to reflect the BAE’s current practice of annually evaluating instructors since the proposed regulations were published. This modification is also referenced in the Preamble.

Affected Parties

The rulemaking will affect retail and wholesale licensees and applicants for certification as instructors. As an active, ongoing program, many in the Commonwealth have already had experience with RAMP. There are about fifteen thousand (15,000) licenses active in Pennsylvania that authorize the sale and service of alcohol for on-premises consumption. As of January 15, 2010, two thousand three hundred (2,300) licensees are certified under RAMP; since the inception of RAMP, three thousand eight hundred sixty-one (3,861) licensees have been RAMP-certified. A total of seven thousand five hundred fifty-nine (7,559) licensees have participated in the owner/manager trainings since the inception of RAMP; a total of seventeen thousand seven hundred sixty-nine (17,769) individuals have received instruction under the owner/manager trainings. A total of eight thousand two hundred (8,200) licensees have participated in the server/seller trainings since the inception of RAMP; a total of one hundred eleven thousand three hundred forty-eight (111,348) individuals have been instructed under the server/seller trainings.

There are currently thirty-three (33) certified instructors who provide server/seller training. Owner/manager trainings are conducted only by designated staff of the BAE, as mandated by section 471.1(c) of the Liquor Code. [47 P.S. § 4-471]. Only the Tavern Association and Ms. Tara Paster have functioned as “providers,” providing both curricula and administrative support to instructors. These entities may be adversely affected to the extent that they will not be eligible for certification by the Board as a provider.

Both parties have been notified about the development of the standardized curriculum and the anticipated change in the regulations.

TIPS (“Training for Intervention ProcedureS”) is a national provider of training curricula, but not administrative support, to instructors. TIPS is a program of Health Communications, Inc., located in Arlington Virginia. TIPS has been advised that the BAE plans to implement its own standard training curriculum. TIPS may be adversely affected by this change to the proposed regulations to the extent that TIPS will not be eligible for certification by the Board as a provider.

Paperwork Requirements

Because these regulations codify an ongoing program, the rulemaking will not significantly increase paperwork for the Board or the regulated community.

Fiscal Impact

RAMP training and certification has been in effect under section 471.1 of the Liquor Code since 2001. The current annual cost of this program to the Board is \$1,011,551.37. Like all of the Board’s operating costs, it is funded fully from the proceeds of selling liquor, not from a General Fund appropriation. Because the program is mandated by law, its costs cannot be avoided completely. Balanced against the cost of the program to the Board is the unquantifiable benefit to the public from licensees and server/sellers that receive training in the practical and legal aspects of alcohol management.

The regulated community (licensees authorized to sell alcohol to the public, including restaurant, hotel, club, eating place retail dispenser, distributor and importing distributor licensees) would not incur any costs or savings unless they use the program. Because certified instructors, and not the Board, provide seller/server training, the Board can only estimate the cost of such training. The Board estimates that the server/seller training would typically cost the retail licensee \$25-\$40 per employee, based on a review of training fees across the country. Cost for owner/manager training is being borne by the Board, therefore, the cost is measured in time spent in training, which is approximately six hours. Savings to the regulated community could be the reduction in administrative sanctions by an Administrative Law Judge in terms of reduced fines, i.e., from \$1000-\$5000

to \$50-\$1000. In cases where an Administrative Law Judge requires a licensee to take responsible alcohol management training as part of an adjudication in a citation proceeding, the owner/manager training cost would be borne by the Board, and the licensee would bear all other costs of compliance.

As explained earlier in this preamble, the final-form regulations delete the provisions for providers and the annual provider certification fee of \$500.00. The provider certification fees and instructor certification fees were never expected to significantly offset the costs of the RAMP program, however, they were expected to help defray some of the Board's administrative costs associated with the certification process.

These final-form regulations will increase the annual instructor certification fee from \$100.00 in the proposed regulations to \$250.00 in these final form regulations. Further, the duration of an instructor's certification has been modified in the final-form regulations from a period of two (2) years to a period of one (1) year. This has been changed to reflect the BAE's current practice of annually evaluating instructors since the proposed regulations were published. While it is impossible to know how many entities or individuals will apply for certification as an instructor, as noted above, there are currently thirty-three (33) instructors approved by the Board. Assuming that all thirty-three (3) instructors apply for certification under the final-form regulations, the total cost to instructors would be eight thousand two hundred fifty dollars (\$8,250) per year. The Board does not believe that such costs will unduly burden future certified instructors.

These regulations are not expected to result in costs or savings to local governments.

Effective Date:

These regulations will become effective upon publication in final form in the *Pennsylvania Bulletin*.

Contact Person:

Further information is available by contacting Christopher L. Herrington, Deputy Chief Counsel, Office of Chief Counsel, Pennsylvania Liquor

Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review:

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 28, 2007, the Pennsylvania Liquor Control Board ("Board") submitted a copy of the notice of proposed rulemaking, published at 39 Pa. B. 499, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Liquor Control and Senate Committee on Law and Justice for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board is required to provide IRRC and the Committees with copies of the comments received during the public comment period, as well as other documents when requested. Only comments from IRRC were received. No comments from the Committees or the public were received.

Under section 5.1(j.2) of the Regulatory Review Act, on _____ (blank) _____, these final-form regulations were (deemed) approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____ (blank) _____ and approved the final form regulations.

P.J. Stapleton III
Chairman



PENNSYLVANIA LIQUOR CONTROL BOARD

Harrisburg, Pennsylvania 17124-0001

February 25, 2010

Telephone: (717) 783-9454

FAX: (717) 787-8820

Kim Kaufman
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RE: Regulation #54-60 (IRRC #2660)
Responsible Alcohol Management Program

By Hand Delivery

Dear Director Kaufman:

By its letter to the Pennsylvania Liquor Control Board's ("Board") Chairman, Patrick J. Stapleton, III, dated March 26, 2008, you noted that the Independent Regulatory Review Commission ("IRRC") had comments regarding the proposed version of the above-referenced regulations that was published in the Pennsylvania Bulletin on January 26, 2008. Eleven (11) comments were set forth in the attachment to your letter. No public comments were received in response to the publication of the proposed regulations.

This letter will provide the Board's responses to IRRC's comments by setting out, in full, each of IRRC's comments, followed by the Board's response.

1. Determining whether the regulation is in the public interest.

Section 5.2 of the RRA (71 P.S. § 745.5b) directs this Commission to determine whether a regulation is in the public interest. When making this determination, the Commission considers criteria such as economic or fiscal impact and reasonableness. The Commission must analyze the text of the proposed rulemaking and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under §745.5(a) of the RRA in the Regulatory Analysis Form (RAF).

We raise three issues that relate to determining whether the regulation is in the public interest.

First, the Preamble states that the proposed rulemaking implements Section 471.1 of the Liquor Code (47 P.S. § 4-471.1). However, the explanation of the regulation in the Preamble is not sufficient to allow this Commission to determine if the program, as contemplated by this regulation, is in the public interest. The "Summary" of the regulation contained in the Preamble contains four bullet points that do not offer a complete explanation of the Responsible Alcohol Management Program (RAMP). In the Preamble submitted with the final-form rulemaking, the Board should provide more detailed information required under the RRA.

Second, both the Liquor Code and the RAF indicate that participation in RAMP can be voluntary or compulsory, as a result of violations of the Liquor Code or as pursuant to the terms of a conditional licensing agreement. However, the regulation does not provide further details on program participation. The final-form regulation should specify the different categories of participants, as well as the consequences each one would face for failure to comply.

Finally, the RAF indicates that the Liquor Code establishes incentives for licensees to receive responsible alcohol management training and train their servers. RAF #13 states that: "[licensees will...benefit if they take advantage of the program by potentially receiving a mitigation of sanctions by an Administrative Law Judge in the case of an employee who serves a minor or a visibly intoxicated person. The benefit for licensees is that this training has the potential of reducing fines for such violations from a range of \$1000-\$5000 to \$50-\$ 1000." The proposed regulation does not mention such incentives. In order to improve clarity, the final-form regulation should include a cross-reference to the appropriate section of the Liquor Code that offers this incentive.

RESPONSE: As requested, the Board has expanded the explanation of the regulation with more detailed information in the Preamble. This additional information will explain how legislation enacted in 2000 implemented the Responsible Alcohol Management Program ("RAMP") and how the Board, through its Bureau of Alcohol Education ("BAE"), has responded to growing demands for training from the regulated community. The Preamble explains how procedures and policies about training have evolved since 2000 that are now being formalized into regulations. It is expected that these regulations will serve the public interest by (1) providing the public and the licensees with greater awareness of RAMP's resources, (2) providing the licensed community with a clear statement

of the licensee, manager and server training standards that implement the legislation's intent, and (3) clarifying how the certification and decertification process for licensees is being implemented.

In addition, the following statistics have been added to the Preamble relative to performance of the RAMP program to date: as of January 15, 2010, approximately two thousand three hundred (2,300) licensees are currently certified under RAMP; since the inception of RAMP, approximately three thousand eight hundred sixty-one (3,861) licensees have been RAMP-certified. A total of seven thousand five hundred fifty-nine (7,559) licensees and seventeen thousand seven hundred sixty-nine (17,769) individuals have participated in the owner/manager trainings since the inception of RAMP. A total of eight thousand two hundred (8,200) licensees and one hundred eleven thousand three hundred forty-eight (111,348) individuals have participated in the server/seller trainings since the inception of RAMP.

There are currently thirty-three (33) approved instructors who provide server/seller training. Owner/manager trainings are conducted only by designated staff of the BAE, as mandated by section 471.1(c) of the Liquor Code. [47 P.S. § 4-471.1(c)].

The Board is unable to provide IRRC with statistics regarding how many licensees have been denied certification, applied for re-certification or have been re-certified, as the BAE does not track such data. Such statistical information would have to be culled from each individual licensee's file, and there are currently about fifteen thousand (15,000) active licenses of record with the Board that are authorized to sell alcohol for on-premises consumption. In addition there are more than one thousand three hundred (1,300) distributor and importing distributor licensees that are authorized to sell malt or brewed beverages, such as beer, to the public for off-premises consumption.

Moreover, the Preamble and the final-form regulations have also been amended to reflect a further evolution of the procedures for server/seller training since the proposed regulations were published for comment on January 26, 2008. The original concept was that "providers" would be certified by the Board to develop training materials and to recruit instructors. The instructors also would be certified by the Board, and it would be the instructors themselves who would train alcohol service personnel. The BAE has since developed a standard training curriculum for use by instructors, thereby eliminating the reliance on providers to develop such curricula for instructors. It should be noted that most instructors currently provide training without having a relationship with a particular provider. Further, nothing contained in the Liquor Code requires both "providers" and "instructors;" rather, section 4-471(b) merely provides that the Board is authorized to certify and

decertify entities that wish to offer training for alcohol service personnel. In recognition of these changes in Board policy, the sections of the proposed regulations (§§ 5.221 and 5.222) dealing with the qualifications of providers and the Board's certification of providers are being withdrawn as no longer relevant. As required by statute, the BAE will continue to train managers and owners. [47 P.S. § 4-471.1(c)].

Further, it should be noted that the provider and instructor certification fees as provided in the proposed regulations were never expected to significantly offset the costs of the RAMP program. However, such fees were designed to help offset the Board's ever-increasing administrative costs associated with RAMP. With the elimination of the provider certification fee in the final form regulations, the Board has increased the annual instructor certification fee from one hundred dollars (\$100.00) in the proposed regulations to two hundred fifty dollars (\$250.00) in these final form regulations to help defray some of these administrative costs.

The Preamble has also been amended to provide more information about the economic or fiscal impact of these regulations. RAMP training and certification has been in effect under section 471.1 of the Liquor Code since 2001. The costs of this program, therefore, do not represent new costs. The current annual cost of this program to the Board is one million, eleven thousand five hundred fifty-one dollars and thirty-seven cents. (\$1,011,551.37). Like all of the Board's operating costs, it is funded fully from the proceeds of selling liquor, not from a General Fund appropriation. Because the program is mandated by law, its costs cannot be avoided completely. Balanced against the cost of the program to the Board is the unquantifiable benefit to the public from licensees and server/sellers that receive training in the practical and legal aspects of alcohol management.

The regulated community (licensees authorized to sell alcohol to the public, including restaurant, hotel, club, eating place retail dispenser, distributor and importing distributor licensees) would not incur any costs or savings unless they use the program. Because certified instructors, and not the Board, provide seller/server training, the Board can only estimate the cost of such training. The Board estimates that the server/seller training would typically cost the retail licensee between twenty-five dollars (\$25.00) and forty dollars (\$40.00) per employee, based on a review of training fees across the country. Cost for owner/manager training is being borne by the Board; therefore, the cost is measured in time spent in training, which is approximately six (6) hours. Savings to the regulated community could be the reduction in administrative sanctions by an Administrative Law Judge in terms of reduced fines for providing alcohol to a minor or to a visibly intoxicated person, i.e., from a range of one thousand dollars

(\$1,000.00) to five thousand dollars (\$5,000.00) without the reduction for RAMP certification to a fine in the range of fifty dollars (\$50.00) to one thousand dollars (\$1,000.00) with RAMP certification. In cases where an Administrative Law Judge requires a licensee to undergo RAMP training as part of an adjudication in a citation proceeding, the owner/manager training cost would be borne by the Board, and the licensee would bear all other costs of compliance.

With respect to IRRC's second issue, the Preamble has been amended to illustrate the various circumstances under which persons or entities participate in RAMP training.

By Act 26 of 2006, Administrative Law Judges were enabled to make RAMP certification mandatory for those licensees adjudicated on the charges of selling alcohol to minors or to visibly intoxicated persons. A citation may be issued if the licensee fails to comply with such an Administrative Law Judge's order to complete RAMP training. Further, the Board's Bureau of Licensing may object to a license renewal application on the basis that a licensee has failed to comply with the terms of an Administrative Law Judge's order.

Moreover, a licensee may be required to participate in RAMP training because it agreed to undergo such training pursuant to the terms of a conditional licensing agreement entered into between the Board and the licensee. A licensee's failure to undergo the training pursuant to the terms of a conditional licensing agreement may result in the issuance of a citation. Further, the Board's Bureau of Licensing may object to a license renewal application on the basis that a licensee has failed to comply with the terms of a conditional licensing agreement

Finally, a licensee may voluntarily choose to undergo RAMP training and certification to allow its owners, managers, servers, sellers and other employees to benefit from the BAE's instruction on the responsible service of alcoholic beverages.

These differing "points of entry" into RAMP are now referenced in the final form regulations.

With respect to IRRC's third issue, the Preamble has been amended to include the references to the Liquor Code relative to a licensee's incentive to become "RAMP certified." Originally, RAMP was primarily a voluntary program. The bill creating this program, 2000, Dec. 20, P.L. 992, No. 141 also created incentives for licensees to become "RAMP Certified." These incentives were that, if a licensee

was “RAMP certified,” and subsequently provided alcohol to a minor or visibly intoxicated person, and if the licensee had no similar violations in the previous four (4) years, the range of monetary penalties to which the licensee would be subject would be reduced to a fine in the range of fifty dollars (\$50.00) to one thousand dollars (\$1,000.00). Without RAMP certification, the monetary range of penalties is one thousand dollars (\$1,000.00) to five thousand dollars (\$5,000.00).

2. Section 5.202. Definitions. - Clarity.

The first line of this section indicates that words and phrases, when used in the subchapter shall have the following meanings, "unless the context clearly indicates otherwise." (Emphasis added.) This phrase is vague, as one person's interpretation of what "clearly indicates otherwise" may be different from that of another person, and it should be deleted from the final form regulation.

Certify

This definition discusses "approval" in writing. What is being approved? The final-form regulation should further define this term.

Instructor

This definition discusses instructing "students" in responsible server practice. What kind of students? The final-form regulation should further define this term.

RAMP

This definition refers to the "program," but the regulation never defines what the "program" is. Furthermore, Section 1.7 (e) of the PA Bulletin Style Manual states that the term being defined may not be included as part of the definition. We recommend that the final-form regulation cross-reference the statutory definition for RAMP.

RESPONSE: The comments from IRRC suggested deleting a vague phrase “unless the context clearly indicates otherwise.” This phrase is derived from section 102 of the Liquor Code [47 P.S. § 1-102] and is used by the General Assembly when defining the terms used in the Liquor Code. Nonetheless, this phrase has been deleted.

The proposed definition of “certify” parallels the dictionary definition of the term. In response to IRRC’s comment recommending clarity about what is being certified, section 5.231 of these regulations provide that the BAE may certify an individual as an instructor if they meet the minimum requirements for education, age, experience, criminal background and attendance at RAMP manager/owner training. At sections 5.201 and 5.271, it is provided that the BAE may certify a licensee as being compliant with the requirements of RAMP.

The term “students” is used in its common dictionary sense and refers to those individuals receiving training in responsible server practices from the instructors. Those individuals may include owners, managers, servers and/or sellers. Members of the general public also could receive training under RAMP. Accordingly, the final-form regulation has been modified to include such examples of students, in accordance with IRRC’s suggestion.

Pursuant to further discussions with IRRC, the Board has removed the definition of “RAMP,” as the acronym is not utilized in the final-form regulations.

As to the use of “RAMP” when referring to the Board’s Bureau of Alcohol Education, a new acronym, “BAE,” is used in the final-form regulations.

3. Section 5.211. Course of study for alcohol service personnel. - Clarity.

Paragraph (6) requires that the course demonstrate "proper incident documentation." The final form regulation should describe the specific documents this paragraph refers to and how it is determined what documents are "proper."

RESPONSE: It is assumed for the purpose of this response that “paragraph (6)” refers to paragraph (f) of section 5.211. As part of the evolution of RAMP training, the BAE now provides a standard training curriculum for instructors to follow. Accordingly, the final-form regulation has been modified to reflect that the BAE will provide instructors with this standard training curriculum, and other provisions have been deleted. Accordingly, it is believed that these changes resolve IRRC’s concerns about clarity in this section.

It should be noted that part of this standard training curriculum refers to an “Incident Documentation Form” available from the BAE.

4. Section 5.221. Provider certification. - Implementation procedures; Clarity.

Subsection (b)

Subsection (b) mentions the "minimum requirements" for provider certification. Based on the provisions in this subsection, it is unclear whether these "minimum requirements" refer to the list of information a provider must submit to the Board, as contained in Subsection (a)(1)-(5), or to some other listing contained in the regulation. The final-form regulation should clarify the location in the regulation of these minimum requirements.

Subsection (c)

This subsection describes what is necessary for providers to renew their certification, and states that: "[t]he same forms, provided by the Board, shall be used for renewals as for initial certification." To improve clarity, this phrase should be modified in the final-form regulation to state that: "the same forms, provided by the Board, shall be used for renewal as for initial certification, and will identify any updated information required for renewal."

RESPONSE: As explained above, the final-form regulations delete the reference to "providers." The comment regarding this section should be moot, given that this section of the proposed regulations is being withdrawn.

As explained earlier herein, between the time the proposed regulations were published for comment and the present, the procedure for training licensees and their servers/sellers has changed. Rather than relying on providers, as referenced in the proposed regulations, BAE has developed a standard training curriculum for use by instructors. It should be noted that, currently, most instructors are providing training without having a relationship with a provider. In recognition of these changes, the sections of the proposed regulations (§§ 5.221 and 5.222) dealing with the qualifications of providers and the Board's certification of providers are being withdrawn as they are no longer relevant.

As required by statute, the BAE will continue to train managers and owners. [47 P.S. § 4-471.1(c)].

5. Section 5.231. Instructor certification. - Implementation procedures; Clarity.

This section describes the requirements necessary for instructor certification. We raise five issues.

First, the opening paragraph states that: "[R] AMP will have a procedure to confirm a candidate's competency to begin and continue working as an instructor." Are the paragraphs following this sentence the "procedure"? The final-form regulation should clarify this issue.

Second, within the first sentence of the section, who is a "candidate"? The term is used but is not defined. Paragraph (3) uses the term "applicant." If these terms have the same meaning, one term should be consistently used throughout the regulation. However, if these terms have different meanings, they should be defined separately.

Third, who will "observe" the instructor's training sessions mentioned in the second sentence?

Fourth, paragraph (3) states: "[i]f the applicant meets the minimum requirements for certification, it will issue..." (Emphasis added.) The final-form regulation should clarify whether "it" refers to the Board or the Bureau of Alcohol Education.

Finally, in paragraph (4), to improve clarity, instead of providing that: "[t]he same fee will be submitted with the renewal application....," the Board should simply state that: "a \$100 fee must accompany an application for renewal."

RESPONSE: The reference in section 5.231 to the "procedure" to be followed by the BAE in confirming an individual's competency to begin and continue working as an instructor refers to the procedure set forth in the various subparagraphs of section 5.231. This is clarified in the first sentence of Section 5.231 in the final-form of the regulation.

The terms "candidate" and "the applicant" both refer to the person who is applying to become an instructor. In order to clarify this, the term "candidate" has been replaced with "person" in paragraph (1), and the phrase "the applicant" in paragraph (3) has been replaced with the phrase "a person who has submitted a completed application."

The final-form of these regulations now specifies that a representative from the BAE will observe an instructor's training sessions. This is clarified in the second sentence of Section 5.231 in the final-form of the regulation.

As suggested by IRRC, the final-form regulations have clarified that the Board will issue a Notice of Certification to an instructor.

Further, the fee to be submitted with an application to renew an instructor's certification has been clarified using IRRC's suggested language. The fee has been increased for the reasons set forth earlier.

It should be noted that the duration of an instructor's certification has been modified in the final-form regulations from a period of two (2) years to a period of one (1) year in subsection 5.231(3). This has been changed to reflect the BAE's current practice of annually evaluating trainers since the proposed regulations were published. This modification is also referenced in the Preamble.

6. Section 5.232. Instructor responsibilities. - Implementation procedures; Clarity.

This section describes the responsibilities of a RAMP instructor. We have four concerns.

First, paragraph (1) states that instructors shall have the responsibility to: "[p]rovide students with current and accurate information." The final-form regulation should identify the subject matter of the "information" that the Board requires instructors to provide.

Second, paragraphs (3) and (4) both discuss minimums for sessions conducted and students trained, with sentences that end with "unless the Board approves a lower...minimum." The final-form regulation should specify under what circumstances the Board would approve a lower minimum number of training sessions and students.

Third, paragraph (5) requires instructors to: "[p]rovide accurate records of attendance and course completion to RAMP...." What is the deadline for when these records must be submitted? Section 5.233(c) covers timeframes for sending attendance records and pass/fail test scores to the Board. To improve clarity, the Board should cross-reference section 5.233(c).

Finally, paragraph (6) refers to instructor meetings. The final-form regulation should provide information on who offers these meetings, for example whether they will be offered by providers, or by the Board itself.

RESPONSE: Subsection 5.232(1) has been modified to reflect that instructors are responsible for utilizing the standardized curriculum provided by the BAE in providing students with information relating to the current status of the law on issues related to the sale or service of alcoholic beverages by licensees. This is a change from the proposed regulation, and should resolve IRRC's concerns about clarity in the first paragraph of this section.

Further, as noted above, a representative from the BAE will observe instructor training sessions to ensure that the instructor is providing the current status of the law to the participants.

IRRC's comments suggested that the circumstances be explained under which the BAE would approve less frequent training sessions by an instructor, or an instructor training fewer than 225 students per year. It is important to the Board that instructors be actively and regularly involved in training students. This keeps instructors' teaching skills fresh and allows the BAE more opportunities to observe the instructors. The final-form regulations now provide that instructors may, by letter or e-mail, request a waiver of these minimum requirements for temporary, non-recurrent emergencies, such as family emergencies, instructor illness, or bad weather.

In addition, the final-form regulations have been modified to make clear that instructors must provide accurate records of the attendance and course completion to the BAE within seven (7) days following a training session. It should be noted that the final-form regulations have been modified to reflect a change in the method by which instructors should provide such records to the BAE. The proposed regulations merely provide that the instructors notify the BAE of such matters by letter or e-mail. The final-form regulations reflect that such information should be entered into the BAE's website, in accordance with current BAE policy. Further, the final-form regulations provide that original attendance sheets must be submitted to the BAE via first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

The instructor meetings referenced in proposed subsection 5.232(5) will be offered by the BAE. As IRRC suggested, this is clarified in the final-form of the regulations.

7. Section 5.233. Minimum standards of training. - Implementation procedures.

Subsection (e) discusses the test scores students must receive in order to complete the RAMP program training sessions. According to this subsection: "[a] student who does not pass may, at the first opportunity, schedule training and take the test again." The Board should include a maximum amount of times a student can take the test before a failed score would impact a licensee, in particular if its participation in RAMP is compulsory.

RESPONSE: As a matter of policy, the Board did not want to put a limit on the times a student could take RAMP training. Responsible server practice training is seen as having some value even if the individual fails the test. If a licensee has a server, manager or owner who fails the test after repeated training, the licensee must still come into mandatory RAMP compliance, presumably by having other individuals take the necessary training. Accordingly, the Board does not believe that a change to subsection 5.233(e) is necessary.

It should be noted that subsection 5.233(b) has been modified to reflect a change in the method by which instructors should notify the BAE of the issues referenced in the subsection (e.g., scheduling of training sessions, cancellations, and modifications). The proposed regulations merely provide that the instructors notify the BAE of such matters by letter or e-mail. The final-form regulations reflect more specific methods of notification in accordance with current BAE policy.

8. Section 5.241. Manager/owner training. - Implementation procedures; Clarity.

Subsection (b)

Subsection (b) describes what aspects should be included in manager/owner training. Subsection (b)(l) requires instruction on how to "monitor" employees. The final-form regulation should clearly state the particular areas in which the manager/owner would be specifically monitoring the employees.

Subsection (c)

Subsection (c) states that the Board will: "[m]aintain records establishing the names of individuals who have successfully undergone manager/owner training." The final-form regulation should provide a timeframe for how long the Board will keep these records, and state whether these records are subject to the applicable state open records law.

RESPONSE: Subsection (b) has been redrafted in the final-form regulations to clarify that owners and managers will be instructed on establishing house rules and policies aimed at preventing sales of alcoholic beverages to minors or visibly intoxicated persons. Further, instruction will be provided on ID checks and signs of visible intoxication. Owners and managers will be trained in techniques to determine whether their employees are properly following house rules and policies including the orientation of new and existing employees, and the documentation of incidents occurring in the workplace.

The records referenced in proposed subsection 5.241(c), which document the names of the individuals who have successfully undergone manager/owner training, will be maintained by the BAE for a period of two (2) years. While such records may ultimately be available to the public under Pennsylvania's Right to Know Law ("RTKL"), the final-form regulations do not specifically refer to the RTKL, as the Board believes that any such requests must be evaluated and responded to on an individual and independent basis.

9. Section 5.242. New employee orientation. - Clarity.

The term "licensee" is used in this section but it is not defined. It should be noted that the term is also used throughout this proposed regulation. The final-form rulemaking should define this term or, if it is defined elsewhere, include a cross-reference.

Subsections (a)(2) and (3) mention "acceptable forms of identification" and "practices for checking identification," and while it is understood, neither mention the actual purpose in reviewing identification. This should be clearly defined in the regulation. To improve clarity, the Board also should cross-reference Section 495(a) of the Liquor Code (47 P.S. §4-495 (a)), which provides the acceptable methods of identification.

Finally, the regulation does not detail what type of "criminal activity" new employees would learn about, as mentioned in Subsection (a)(6). The final-form regulation should include this information.

RESPONSE: A definition of “licensee” has been added to final-form section 5.202.

References have been added in subsections 5.242(a)(2) and (a)(3) to the acceptable forms of identification provided in the Liquor Code (47 P.S. § 4-495(a)) and the Liquor Code’s prohibition of service to minors (47 P.S. § 4-493(1)), respectively. In addition, the terminology “visibly intoxicated customers” has been changed in subsections 5.242(a)(4) and (a)(5) to “visibly intoxicated persons” to conform to the language of 47 P.S. § 4-493(1).

The final-form regulations also have been clarified to give examples of the types of “criminal activity” which new employees would be learning how to handle or address as including drug activity, assaults or fights, loitering and prostitution.

It should be noted that subsection 5.242(b) has been changed in the final-form regulations by deleting the reference to “designated trainer” in discussing who the licensee may utilize in conducting the new employee orientation. The final-form regulation now provides that a licensee is responsible for ensuring that the owner or manager conduct the new employee orientation. The reference to “designated trainer” was removed for the sake of clarity, as the Board does not want to have licensees confuse such an orientation with server/seller training conducted by certified instructors. Moreover, the Board believes that it is incumbent upon the licensee to ensure that the new employee orientation is conducted either by its owner or management.

10. Section 5.251. Prohibited conduct. - Clarity.

Subsection (a)(9) refers to an instructor or provider receiving, as a result of class observations conducted by RAMP, an "unsatisfactory evaluation" regarding the presentation of the course of study. The final-form regulation should include examples of circumstances that would warrant an "unsatisfactory evaluation."

For purposes of clarity, can subsections (b) and (c) be combined into one subsection?

RESPONSE: The final-form regulations provide that an instructor who fails to satisfactorily carry out the instructor's responsibilities, as provided in proposed section 5.232, or fails to meet the Minimum Standards of Training, as provided in proposed section 5.230, would receive an "unacceptable evaluation" under proposed subsection 5.251(a)(9). Examples of conduct which would warrant such an unacceptable evaluation include, but are not limited to: failing to provide students with current and accurate information, failing to provide accurate records of attendance and course completion to the BAE, failing to conduct at least a two and a half (2½) hours of instructional time in each training, exceeding the ratio of students per instructor, and failing to properly administer the standardized test prepared by the BAE.

It should be noted that the proposed regulations contained the term "Unsatisfactory," which has been changed in the final regulations to the term "Unacceptable." This change was made to reflect the terminology used in BAE's current evaluation form, which contains the following categories: Outstanding, Acceptable, Needs Improvement and Unacceptable.

Further, it should be noted that, whereas in the proposed regulations, the Board has the discretion to decertify instructors who received three (3) such "unsatisfactory" evaluations, the final-form regulations provide that the Board has the discretion decertify instructors who receive one (1) or more "unacceptable" evaluations. This was changed in light of the fact that the final-form regulations, as noted above, clearly put instructors on notice of the type of conduct which would warrant such an unacceptable evaluation from the BAE. Accordingly, the Board believes that an instructor having at least one (1) such unacceptable evaluation is sufficient to allow the Board to evaluate whether that instructor should be decertified.

Finally, subsections (b) and (c) of 5.251 have been combined for clarity, as suggested by IRRC.

11. Section 5.271. Premises certification. - Clarity.

Subsection (a) indicates that a licensee may request that the Board certify that it complies with Section 471.1 of the Liquor Code (47 P.S. § 4-471.1), and that: "[t]his request may be made by personal contact, telephone or written communication to RAMP." The final-form regulation should explain what types of "written communication" are appropriate (i.e., US mail, e-mail, etc.).

RESPONSE: The final-form regulations have been amended as suggested to add the forms of written communication a licensee may use to request premises certification.

By the foregoing, the Board submits that it has responded to each of IRRC's comments. Therefore, there are transmitted herewith, the following:

- CDL-1
- Preamble
- Annex A
- Regulatory Analysis Form
- Signed Transmittal Sheet

Should you have any questions, please contact Assistant Counsel James F. Maher or Deputy Chief Counsel Christopher Herrington at (717) 783-9454.

Very truly yours,



FAITH S. DIEHL
CHIEF COUNSEL

cc: Honorable John Pippy, Chairman, Senate Committee on Law and Justice
Honorable Sean Logan, Democratic Chairman, Senate Committee on Law and Justice
Honorable Robert Donatucci, Chairman, House Committee on Liquor Control
Honorable John Taylor, Republican Chairman, House Committee on Liquor Control
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Ms. Danielle Guyer, Governor's Office of the Budget
Barbara Adams, Governor's Office of General Counsel
Ms. Donna Cooper, Governor's Office
Major John P. Lutz, Pennsylvania State Police, Bureau of Liquor Control Enforcement

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

Chapter 5 – DUTIES AND RIGHTS OF LICENSEES

Subchapter I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

5.201. Purpose.

5.202. Definitions.

COURSE OF STUDY

5.211. Course of study for alcohol service personnel.

PROVIDERS

~~5.221. Provider certification.~~

~~5.222. Provider changes.~~

INSTRUCTORS

5.231. Instructor certification.

5.232. Instructor responsibilities.

5.233. Minimum standards of training.

TRAINING/ORIENTATION

5.241. Manager/owner training.

5.242. New employee orientation.

5.243. Records.

PROHIBITED CONDUCT

5.251. Prohibited conduct.

SIGNS

5.261. Signs.

CERTIFICATION

5.271. Premises certification.

GENERAL

§ 5.201. Purpose.

This subchapter implements the program authorized by section 4-471.1 of the Liquor Control CODE (47 P.S. § 4-471.1), regarding responsible alcohol management. This provision authorizes the Board to establish a four-part program including:

- (1) New employee orientation.
- (2) Training for alcohol service personnel.
- (3) Manager/owner training.
- (4) Display of responsible alcohol service signage.

PURSUANT TO SECTION 4-471.1(F), LICENSEES ARE TO OBTAIN CERTIFICATION UPON THE COMPLETION OF A CERTIFIED ALCOHOL SERVICE PERSONNEL PROGRAM OR THE BOARD'S OWNER/MANAGER TRAINING PROGRAM. SUCH CERTIFICATION SHALL BE VALID FOR TWO YEARS.

LICENSEES AND THEIR MANAGERS AND EMPLOYEES MAY ENTER THE RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM VOLUNTARILY, MAY COMMIT TO PARTICIPATION AS PART OF A CONDITIONAL LICENSING AGREEMENT ENTERED INTO WITH THE BOARD, OR MAY BE REQUIRED TO PARTICIPATE BY ORDER OF ONE OF THE BOARD'S ADMINISTRATIVE LAW JUDGES. THIS SUBCHAPTER ALSO ESTABLISHES STANDARDS FOR THE BOARD TO CERTIFY COMPLIANCE WITH THIS PROGRAM.

§ 5.202. Definitions.

When used in this subchapter, the following words and phrases shall have the following meanings, ~~unless the context clearly indicates otherwise~~:

BAE – THE PENNSYLVANIA LIQUOR CONTROL BOARD'S BUREAU OF ALCOHOL EDUCATION, WHICH IS RESPONSIBLE FOR ADMINISTERING THE RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM.

Certify – to approve and confirm the approval in writing.

Instructor – an individual ~~who is a Provider or is an agent of a Provider and~~ who is certified by the Board to instruct students, INCLUDING LICENSEES, OWNERS, MANAGERS, SERVERS, SELLERS AND MEMBERS OF THE PUBLIC, in responsible server practices.

LICENSEE – AN INDIVIDUAL, PERSON OR ENTITY THAT HOLDS A LICENSE ISSUED BY THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Manager/Owner Training – training conducted by the Board or its employees for individuals who manage or own licensed premises.

New Employee – an individual who has not been employed at the licensed premises seeking certification in any capacity during the preceding year.

~~*Provider* – a person certified by the Board to provide Instructors and a course of study in responsible server practices.~~

~~*RAMP* – Responsible Alcohol Management Program – The program and office in the Board's Bureau of Alcohol Education that manages the program.~~

Responsible Server Practices – Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons.

COURSE OF STUDY

§ 5.211. Course of Study for Alcohol Service Personnel.

A STANDARD CURRICULUM FOR THE The course of study WILL BE PROVIDED BY THE BAE. ~~offered by a Provider will, at a minimum:~~

~~(a) Explain that alcohol is a drug and its effect on the human body and behavior, especially driving ability;~~

~~(b) Specify factors leading to alcohol intoxication, as well as the effects of alcohol in combination with drugs (legal and illegal);~~

~~(c) Examine cases, statutes and court decisions to be obtained from the BAE as well as other public sources pertaining to liquor liability, driving under the influence, minors unlawfully frequenting licensed premises, furnishing alcoholic beverages to minors and visibly intoxicated persons and the penalties associated with violations of statutes and regulations;~~

~~(d) Teach servers how to effectively intervene and recognize customers showing signs of visible intoxication or becoming disruptive;~~

~~(e) Show options for determining validity of age identification documents;~~

~~(f) Demonstrate proper incident documentation using either the “Incident Documentation Form” provided by the BAE or a privately developed form that facilitates recording the essential facts about an unusual event occurring in the licensed premises;~~

~~(g) Provide recommended policies for licensed establishments to promote safe and responsible consumption of alcoholic beverages.~~

PROVIDERS

~~§ 5.221. Provider Certification.~~

~~(a) The Board may certify a person as a Provider if the person:~~

~~(1) Files an application on forms provided by the Board;~~

~~(2) Pays a \$500 non-refundable application fee;~~

~~(3) Submits a course of study outline meeting the Board’s requirements as set forth in § 5.211;~~

~~(4) Sends a copy of the teaching materials planned for use along with the application, and~~

~~(5) Uses only Board-certified Instructors as teachers.~~

~~(b) If the applicant meets the minimum requirements for certification as specified in subsection (a), the Board shall issue to the Provider a Notice of Certification. The Provider then may hold itself out as a Board-Certified RAMP~~

~~Instruction Provider. The period of certification shall be two years from the date of issuance of the notice of certification.~~

~~(c) Renewal of certification shall be submitted to the Board not less than thirty days prior to the expiration of the Provider's current certification. The same forms, provided by the Board, shall be used for renewals as for initial certification and will identify any updated information required for renewal. The same fee will be submitted with the renewal application as is submitted for the original certification.~~

~~Section 5.222 Provider changes.~~

~~A Provider shall report changes in ownership or management of the Provider, the employment status of Instructors and changes in the course of study by letter or e-mail to the BAE, no later than 30 days after the change.~~

INSTRUCTORS

Section 5.231. Instructor certification.

THE BAE RAMP will have a procedure, AS SET FORTH IN THIS SECTION, to confirm a ~~candidate's~~ PERSON'S competency to begin and continue working as an instructor. Part of this procedure will include observation of an Instructor's training sessions BY REPRESENTATIVES OF THE BAE AT LEAST TWICE PER YEAR.

(1) A person desiring certification as an instructor shall submit an application on forms issued by the Board and shall pay a **\$250** ~~\$100~~-non-refundable application fee.

(2) The minimum qualifications of an instructor include the following:

(i) Possessing a high school diploma or GED.

(ii) Possessing a minimum of 2 years of experience, full-time, in the field of education, law, law enforcement, substance abuse prevention, hospitality or alcohol service training.

(iii) Being 21 years of age or older.

(iv) Having no arrests that are related to alcohol, narcotics or other controlled substances in the previous 10 years.

(v) Attending manager/owner training once in the year preceding the date the application for instructor certification is filed.

(3) ~~If the applicant~~ A PERSON WHO HAS SUBMITTED A COMPLETED APPLICATION meets the minimum requirements for certification, THE BOARD ~~it~~ will issue to the instructor a Notice of Certification. The period of certification shall be ~~2~~ ONE years from the date of issuance of the Notice of Certification.

(4) Renewal of certification shall be submitted to the BAE ~~Board~~ NOT LESS THAN ~~at least~~ 30 days prior to the expiration of the instructor's current certification. The same forms, provided by the BAE, ~~Board~~ shall be used for renewals as for initial certification. A \$250 FEE MUST ACCOMPANY AN

APPLICATION FOR RENEWAL ~~The same fee will be submitted with the renewal application as is submitted for the original certification.~~

Section 5.232. Instructor Responsibilities.

Instructors shall have the responsibility to do the following:

(1) USING THE STANDARD CURRICULUM PROVIDED BY THE BAE, PROVIDE ~~Provide~~ students with ~~current and accurate~~ information RELATED TO THE CURRENT STATUS OF THE LAW ON ISSUES RELATED TO THE SALE OR SERVICE OF ALCOHOLIC BEVERAGES BY LICENSEES.

(2) Schedule training sessions in locations throughout the Commonwealth.

(3) CONDUCT AT LEAST TWO TRAINING SESSIONS PER QUARTER AND TRAIN AT LEAST 225 STUDENTS PER YEAR. INSTRUCTORS MAY REQUEST A WAIVER OF THESE MINIMUM REQUIREMENTS BY SENDING A LETTER OR E-MAIL TO THE BAE. THE BAE WILL WAIVE THE REQUIREMENTS FOR MINIMUM TRAINING ACTIVITY FOR INSTRUCTORS DUE TO TEMPORARY, NON-RECURRENT EXIGENCIES, SUCH AS INSTRUCTOR ILLNESS OR FAMILY EMERGENCY, BAD WEATHER OR OTHER CIRCUMSTANCES BEYOND THE INSTRUCTOR'S CONTROL. ~~Conduct at least two training sessions per quarter unless the Board approves a lower quarterly minimum;~~

(4) ~~Train a minimum of 225 students per year unless the Board approves a lower~~

~~annual minimum.~~

~~(5)~~ (4) Provide accurate records of attendance and course completion, AS REQUIRED BY SECTION 5.233(C), to THE BAE RAMP ~~by letter or e-mail~~ WITHIN SEVEN CALENDAR DAYS FOLLOWING EACH TRAINING SESSION VIA THE BAE'S WEBSITE. ORIGINAL ATTENDANCE SHEETS MUST BE SUBMITTED TO THE BAE VIA FIRST CLASS UNITED STATES MAIL, OTHER DELIVERY OR EXPRESS SERVICE, TRANSMISSION BY FACSIMILE OR BY E-MAIL.

~~(6)~~ (5) Attend instructor meetings twice per year as scheduled by THE BAE RAMP.

~~(7)~~ (6) Attend manager/owner training at least once per year.

§ 5.233. Minimum Standards of Training.

(a) Instructors shall conduct training sessions conforming to THE BAE'S STANDARD CURRICULUM ~~Provider's course of study and using the Provider's training materials.~~

(1) Each training session shall consist of at least 2½ hours of instructional time.

(2) The ratio of students per Instructor shall not exceed 40 to 1.

(b) Instructors shall notify THE BAE RAMP of the following ~~by letter or e-mail~~:

(1) At least seven CALENDAR days in advance of scheduling any training session. INSTRUCTORS WILL PROVIDE SUCH NOTIFICATION TO THE BAE VIA THE BAE'S WEBSITE FOLLOWING EACH TRAINING SESSION. ORIGINAL ATTENDANCE SHEETS MUST BE SUBMITTED TO THE BAE VIA FIRST CLASS UNITED STATES MAIL, OTHER DELIVERY OR EXPRESS SERVICE, TRANSMISSION BY FACSIMILE OR BY E-MAIL.

(2) Immediately of any training session cancellation. INSTRUCTORS WILL PROVIDE SUCH NOTIFICATION TO THE BAE VIA FIRST CLASS UNITED STATES MAIL, OTHER DELIVERY OR EXPRESS SERVICE, TRANSMISSION BY FACSIMILE OR BY E-MAIL.

(3) Immediately of any changes to the training schedule. INSTRUCTORS WILL PROVIDE SUCH NOTIFICATION TO THE BAE VIA FIRST CLASS UNITED STATES MAIL, OTHER DELIVERY OR EXPRESS SERVICE, TRANSMISSION BY FACSIMILE OR BY E-MAIL.

(c) Instructors shall obtain the student information indicated at subsections (1) – (3) BELOW at the beginning of the training session. An instructor shall send a completed attendance sheet to THE BAE ~~RAMP~~ within 7 days of the end of the training session, including the following information from each student:

(1) Name.

(2) Home address.

(3) Home telephone number.

(4) Student identification number issued by THE BAE ~~RAMP~~.

(5) Pass/Fail score on the test.

(6) Licensed establishment name, address and Licensee Identification (“LID”).

(7) Time and location of training.

(d) At the conclusion of the training, the instructor shall administer a standardized test prepared by THE BAE ~~RAMP~~, insuring that students complete the examination as a “closed book exam,” without access to references to aid in the completion of the examination.

(e) The instructor shall grade examinations and notify students of their grades. A test score of 80% or better is required to pass. A student who does not pass may, at the first opportunity, schedule training and take the test again.

TRAINING/ORIENTATION

§ 5.241. Manager/owner training.

(a) Manager/Owner training will be conducted by the BAE ~~Board~~.

(B) THIS TRAINING WILL INCLUDE INSTRUCTION ON PROPER SERVICE OF ALCOHOL, DEVELOPING AN ALCOHOL SERVICE POLICY AND ESTABLISHING HOUSE RULES AND POLICIES AIMED AT PREVENTING SALES OF ALCOHOLIC BEVERAGES TO MINORS OR VISIBLY

INTOXICATED PERSONS. FURTHER, INSTRUCTION WILL BE PROVIDED ON ID CHECKS AND SIGNS OF VISIBLE INTOXICATION. INSTRUCTION WILL BE PROVIDED ON TECHNIQUES TO ASSURE THAT EMPLOYEES ARE COMPLYING WITH HOUSE RULES AND POLICIES, INCLUDING THE ORIENTATION OF NEW AND CURRENT EMPLOYEES, AND THE DOCUMENTATION OF INCIDENTS OCCURRING IN THE WORKPLACE.

~~(b) This training will include the following:~~

~~——(1) Instruction on how to monitor employees;~~

~~——(2) Proper service of alcohol.~~

~~——(3) How to develop an appropriate alcohol service policy.~~

(c) FOR A PERIOD OF TWO YEARS, THE ~~The~~ Board shall maintain records establishing the names of individuals who have successfully undergone manager/owner training.

§ 5.242. New Employee Orientation.

(a) Licensees applying for certification of compliance under section 471.1 of the Liquor Code (47 P.S. § 4-471.1) shall conduct new employee orientation within 30 days of the employee's hire, in accordance with a checklist of responsible server practices provided by THE BAE ~~RAMP~~ including:

(1) Penalties for furnishing or selling alcohol to minors.

- (2)Acceptable forms of identification, AS DEFINED IN THE LIQUOR CODE AT 47 P. S. § 4-495(A).
 - (3)Practices for checking identification TO PREVENT THE SERVICE OF ALCOHOL TO MINORS, WHICH IS PROHIBITED BY THE LIQUOR CODE AT 47 P. S. § 4-493(1).
 - (4)Penalties for furnishing or selling alcohol to visibly intoxicated PERSONS ~~eustomers~~.
 - (5)Practices for refusing service of alcohol to visibly intoxicated PERSONS ~~eustomers~~.
 - (6)Procedures for handling situations where criminal activity, SUCH AS DRUG ACTIVITY, ASSAULTS OR FIGHTS, LOITERING, AND PROSTITUTION, is occurring in or about the premises.
- (b) The licensee is responsible for ensuring that the owner; OR manager ~~or designated trainer~~ conducts the new employee orientation.

§ 5.243 Records.

- (a) The licensee shall keep the following records:
 - (1)Certification status of its employees, managers and owners, consisting of the name of the employee, manager or owner, date of hire, date of training and the name of the trainer.
 - (2)Date of premises certification.

(3) Records of its new employee orientation program.

(4) Responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted.

(b) These records will be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code. (47 P.S. § 4-493(12)).

PROHIBITED CONDUCT

§ 5.251 Prohibited Conduct.

(a) The Board may decertify ~~providers~~ and instructors for violating any of the provisions of this subchapter or engaging in the following conduct:

(1) Discrimination or harassment based on age, race, sex, disability, national origin, or religion.

(2) An act that is in violation of the Liquor Code or this title.

(3) An act resulting in a misdemeanor or felony conviction.

(4) An act resulting in admittance into an accelerated rehabilitative disposition ("ARD") program if the underlying activity is related to alcoholic beverages, narcotics or controlled substances.

(5) Being under the influence of alcoholic beverages, narcotics, or controlled substances during training presentations, examinations or breaks.

- (6) Knowingly permitting students to be under the influence of alcoholic beverages, narcotics, or controlled substances during training presentations, examinations or breaks.
- (7) Cheating or condoning cheating by students.
- (8) Knowingly providing false information on reports submitted to the Board.
- (9) Having ~~three or more unsatisfactory~~ an UNACCEPTABLE evaluations regarding the presentation of the course of study from class observations conducted by THE BAE ~~RAMP~~. AN UNACCEPTABLE EVALUATION WILL RESULT FROM CONDUCT INCLUDING, BUT NOT LIMITED TO, FAILING TO SATISFACTORILY CARRY OUT THE INSTRUCTOR'S RESPONSIBILITIES AS PROVIDED IN SECTION 5.232, FAILING TO MEET THE MINIMUM STANDARDS OF TRAINING AS PROVIDED IN SECTION 5.211, FAILING TO PROVIDE STUDENTS WITH CURRENT AND ACCURATE INFORMATION, FAILING TO PROVIDE ACCURATE RECORDS OF ATTENDANCE AND COURSE COMPLETION TO THE BAE, FAILING TO CONDUCT AT LEAST 2½ HOURS OF INSTRUCTIONAL TIME IN EACH TRAINING, EXCEEDING THE RATIO OF STUDENTS PER INSTRUCTOR, AND FAILING TO

PROPERLY ADMINISTER THE STANDARDIZED TEST
PREPARED BY THE BAE.

(b) The Board will send a Notice of Decertification TO AN ~~provider or~~ INSTRUCTOR by certified U.S. mail. AN Appeal of the Board's decision to decertify AN INSTRUCTOR ~~a provider~~ shall be as set forth in SECTION 702 OF THE ADMINISTRATIVE AGENCY LAW (2 Pa. C.S.A. § 702).

~~(c) The Board will send a Notice of Decertification by certified U.S. mail to an Instructor and to the Provider Appeal of the Board's decision to decertify an Instructor shall be as set forth in Section 702 of the Administrative Agency Law (2 Pa. C.S.A. § 702).~~

(c) The Board will not consider AN ~~a provider's or~~ instructor's application for re-certification until 1 year after the date of decertification.

SIGNS

§ 5.261. Signs.

(a) Signs for posting in the licensed premises will be provided by the Board. A licensee may use its own signs provided that they are equivalent in size and content to the Board's signs.

(b) The following signs must be posted, notifying patrons about:

(1) Acceptable forms of identification as described in section 495(a) of the Liquor Code (47 P.S. § 4-495(a)).

(2) The licensee's duty to refuse service to minors and visibly intoxicated PERSONS ~~patrons~~ under section 493(1) of the Liquor Code (47 P.S. § 4-493(1)).

(c) The design of the signs shall be such that they are legible from a distance of 10 feet. Signs must be located where patrons will easily see them.

(d) The licensee is responsible for the posting and maintenance of signs.

CERTIFICATION

§ 5.271. Premises Certification.

(a) A licensee may request that the Board certify that it complies with section 471.1 of the Liquor Code (47 P.S. § 4-471.1). The request may be made by personal contact, telephone or written communication to THE BAE ~~RAMP~~. WRITTEN COMMUNICATION INCLUDES FIRST CLASS UNITED STATES MAIL, OTHER DELIVERY OR EXPRESS SERVICE, TRANSMISSION BY FACSIMILE OR BY E-MAIL.

(b) Certification or recertification will be issued by the Board after investigation and approval of the licensed premises.

(c) There is no fee for certification or recertification.

(d) If the Board finds that a licensee has met the requirements of section 471.1, the licensee shall be issued a certificate of compliance valid for 2 years.

(e) If the Board finds that a licensee has not met the requirements of section 471.1 of the Liquor Code or this subchapter, and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was not mandated by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board shall refuse certification or decertify the licensee.

(f) If the Board finds that a licensee has not met the requirements of section 471.1 of the Liquor Code or this subchapter and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was required by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse the application for certification or decertify the licensee and refer the matter to the Pennsylvania State Police, Bureau of Liquor Control Enforcement;

(g) The Board will send a Notice of Decertification to the licensee by certified United States mail. Appeal of the Board's decision to decertify a licensee shall be as set forth in 2 Pa. C.S. § 702 (relating to appeals).

(h) A licensee may apply for recertification at any time after the date of decertification.

(i) The Office of Administrative Law Judge will take official notice of the Board's records with regard to the licensee's certification.

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

I.D. NUMBER: 54-60 (IRRC No. 2660)

SUBJECT: Responsible Alcohol Management Program

AGENCY: Liquor Control Board

TYPE OF REGULATION

_____ Proposed Regulation

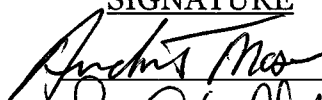
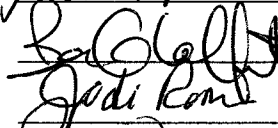
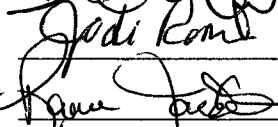
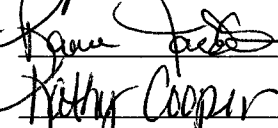
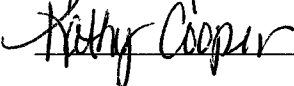
 X Final Regulation

_____ Final Regulation with Notice of Proposed Rulemaking Omitted

_____ 120-day Emergency Certification of the Attorney General

_____ 120-day Emergency Certification of the Governor

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
2/25/10	 (1)	HOUSE COMMITTEE ON LIQUOR CONTROL (<i>Democrat</i>) (<i>Republican</i>)
2/25/10	 (2)	SENATE COMMITTEE ON LAW & JUSTICE (<i>Republican</i>) (<i>Democrat</i>)
2/25/10	 (3)	
2/25/10	 (4)	
2/25/10	 (5)	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____ (6)	ATTORNEY GENERAL
_____	_____ (7)	LEGISLATIVE REFERENCE BUREAU