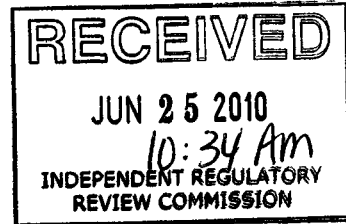


Regulatory Analysis Form

(Completed by Promulgating Agency)



SECTION I: PROFILE



IRRC Number: 2760

(1) Agency:

Department of State, Bureau of Professional and Occupational Affairs, State Board of Funeral Directors

(2) Agency Number:

Identification Number: **16A-4818**

(3) Short Title:

Continuing education enforcement

(4) PA Code Cite:

49 Pa. Code §§ 13.231, 13.401, 13.402

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

Primary Contact: **Thomas A. Blackburn, Regulatory unit counsel, Department of State;**
(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; tblackburn@state.pa.us

Secondary Contact: **Joyce McKeever, Deputy Chief Counsel, Department of State**
(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; jmckeever@state.pa.us

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

(717)783-3397; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)705-5540; st-funeral@state.pa.us

(All Comments will appear on IRRC'S website)

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

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

Regulatory Analysis Form

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

This rulemaking amends the regulations of the State Board of Funeral Directors to provide that a licensee who has not completed the required amount of continuing education may renew, subject to being issued a citation and making up the deficient credits within six months. The rulemaking also amends the regulations to require a licensee to fully and timely comply with audit requests in enforcement of continuing education requirement.

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

- | | |
|---|----------------------------|
| A. The date by which the agency must receive public comments: | June 2, 2009 |
| B. The date or dates on which public meetings or hearings will be held: | N/A |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | By 2/1/2012 renewal |
| D. The expected effective date of the final-form regulation: | Upon publication |
| E. The date by which compliance with the final-form regulation will be required: | Upon publication |
| 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.

The Board continually reviews the efficacy of its regulations, as part of its annual review process pursuant to Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the first Wednesday of each month. More information can be found on the Board's website (www.dos.state.pa.us/funeral).

SECTION II: STATEMENT OF NEED

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

The rulemaking is adopted under sections 10(b)(1) and 16(a) of the Funeral Director Law (act) (63 P.S. §§ 479.10(b)(1) and 479.16(a)).

Regulatory Analysis Form

(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.

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

(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.

Under the Board's current regulations, a licensed funeral director who did not complete the required amount of continuing education is not permitted to renew. The licensee would either not practice until completing the required amount of continuing education (and deprive clients of professional services) or continue to practice without renewing (in violation of law). The rulemaking permits the licensee to renew and practice legally, but also requires the licensee to pay a civil penalty and make up the continuing education deficiency. The rulemaking promotes the goal of continuing education by still requiring a licensee to complete the required amount of continuing education.

By being permitted to renew and practice for up to 6 months at the cost of a civil penalty and making up the deficiency, those licensees who did not complete the continuing education requirement, and their clients, will benefit from the rulemaking. By utilizing the Act 48 citation system for these violations, the Board, the Bureau and the affected licensees will benefit from the reduced cost of prosecuting through these more streamlined procedures.

(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.

This rulemaking is not based upon any scientific data, studies, or references.

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

The Board has not identified any group of individuals or entities that will be adversely affected by the rulemaking.

(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.

The rulemaking will apply to all licensees of the Board, but it is only applicable to those licensees who either fail to timely complete the required amount of mandatory continuing education. There are approximately 3,300 licensed funeral directors with active licenses in this Commonwealth.

Regulatory Analysis Form

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.

There are no costs to members of the regulated community associated with compliance with the rulemaking. Those few members of the regulated community who do not complete the required amount of continuing education on time will have a savings by being permitted to continue practicing for up to 6 months while completing the required amount of continuing education. Additionally, the Board and the Bureau and those few members of the regulated community who are charged with failing to complete the required amount of continuing education will enjoy a savings as a result of compliance with this proposed rulemaking, as a result of the summary Act 48 citation process rather than full formal disciplinary action.

(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.

There are no costs or savings to local governments associated with compliance with the rulemaking.

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

There are no costs or savings to state government associated with implementation of the rulemaking.

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

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A

Regulatory Analysis Form

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

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

Program	FY -3 2006-07	FY -2 2007-08	FY -1 2008-09	Current FY 2009-10
Pa. State Board of Funeral Directors	\$851,657	(projected) \$986,024	(budgeted) \$928,000	(budgeted) \$1,086,000

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

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

(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.

The Board did not solicit input for an exposure draft. The Board discussed the proposed rulemaking in public session during the Board's meetings in April and May, 2008.

(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.

No alternative regulatory schemes were considered.

Regulatory Analysis Form

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

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

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

In New York, a funeral director who fails to complete required continuing education has a 120-day grace period in which to complete the required amount of continuing education after the triennial renewal period. In Delaware, a funeral director who did not timely complete continuing education may, in the discretion of the licensing board, be permitted to renew the license and practice and obtain the continuing education credits in a time period specified by the board. Except for waiver of the continuing education requirement in specific cases, Maryland, New Jersey, Ohio and West Virginia have no provisions that permit a licensed funeral director who has not met the continuing education requirements to renew and continue to practice.

The regulation will not put Pennsylvania at a competitive disadvantage with other states.

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

This rulemaking would have no effect on other regulations of the Board or other state agencies.

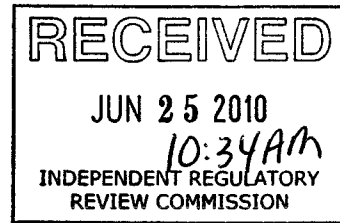
(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The rulemaking will not change any existing reporting, recordkeeping or other paperwork requirements.

(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.

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

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

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

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

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Funeral Directors
(AGENCY)

BY:
Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. 16A-4818

DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION:

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

BY:
Michael J. Yeosock, FD

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

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF FUNERAL DIRECTORS

49 Pa. Code §§ 13.231, 13.401, 13.402
CONTINUING EDUCATION ENFORCEMENT

The State Board of Funeral Directors (Board) amends §§ 13.231 and 13.401 (relating to biennial registration, unregistered status and inactive status, failure to renew; and credit hour requirements), to read as set forth in Annex A.

Description and Need for the Rulemaking

Section 10(b)(2) of the Funeral Director Law (act) (63 P.S. § 479.10(b)(2)) requires licensees to complete 6 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal. Under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)), the Board may take disciplinary action against any licensee who fails to comply with any provision of the act or Board regulations. Disciplinary actions for failing to complete the continuing education requirement in a timely manner invariably result in the licensee being required to pay a civil penalty proportionate to the amount of deficiency and to make up the deficiency promptly. Accordingly, the Board proposed to utilize the more streamlined procedures under section 5(a) of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) (63 P.S. § 2205(a)), which provides that the Commissioner of Professional and Occupational Affairs, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs, may promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards.

The Board proposed permitting a licensee to renew despite not having completed the required amount of continuing education. However, the licensee would be required to pay a civil penalty by citation as set forth in § 43b.6 (related to schedule of civil penalties – funeral directors and funeral establishments) and to make up the deficient hours of continuing education and to provide proof to the Board within 6 months of the beginning of the renewal cycle. A licensee who does not do so will be subject to discipline under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)), which authorizes the Board to discipline a licensee for violating the act or a regulation of the Board. Second and subsequent violations of failing to complete all required continuing education would be subject to formal action.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 39 Pa.B. 2210 (May 2, 2009) with a 30-day public comment period. The Board received no written comments from the public. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1-745.12). The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The HPLC first suggested that the Board clarify any inconsistencies in language between § 13.231, which provides that the Board will not renew license unless licensee certifies compliance with CE requirements, and proposed § 13.401(d), which provides that a licensee who has not completed all required CE must make up deficiency within six months after end of non-compliant renewal period. Current § 13.231(a) simply requires a licensee to certify that the licensee “has completed the amount of continuing education required by § 13.401 (relating to credit hour requirements). The Board proposed revising this provision to require the licensee to certify that the

licensee “has complied with the continuing education requirements mandated by section 10(b) of the act during the biennial period immediately preceding the application for renewal in accordance with §§ 13.404-13.406 (relating to continuing education).” The intent of this change was to permit a licensee who did not complete the required amount of continuing education, but would pay the civil penalty and cure the deficiency after renewal, to certify compliance with the regulation that authorizes this corrective action. The Board has revised this provision to clarify that a licensee must verify compliance with the continuing education requirement unless excused by the Board as hardship or “as permitted under § 13.401(d).”

The HPLC also asked how the Board will monitor the grace period during which a licensee must make up a deficiency in continuing education. The Board’s administrative office will monitor completion by those licensees who renew without having completed the required amount of continuing education. Because the Board office conducts the initial audit of licensees randomly selected for audit, the Board office will also contact those licensees who have renewed without having completed the required amount of continuing education and request proof of continuing education for that renewal period. If the licensee timely provides documentation showing that the licensee fully satisfied the continuing education requirement within the 6-month period, the matter ends. If the licensee does not provide the documentation, the matter will be forwarded to the professional compliance office and the prosecution division to initiate disciplinary action.

IRRC first questioned the licensure status for a licensee who renewed without having completed the required continuing education. Upon renewal of the license, the licensure status is the same as if the licensee had completed the entire continuing education requirement in a timely fashion. Only if the Board later takes disciplinary action, such as if the Board then suspends a license where the licensee still has not completed the required continuing education, would the licensure status change.

IRRC also questioned how the Board would implement the civil penalties described in the rulemaking. As discussed above, following renewal by a licensee who acknowledges failure to complete the required amount of continuing education, the Board office will collect documentation from the licensee concerning continuing education completed by the licensee. The Board office will forward this information about CE deficiency to the professional compliance office and the prosecution division for issuance of an appropriate citation. Once a citation is issued, the normal citation process will follow, and the licensee will be required to pay the citation or request a hearing and appeal as appropriate. In accordance with its standing procedures, if at the end of the process a violation is found and the licensee does not pay the civil penalty timely, the Board will suspend the licensee’s license. The Board will not delay issuance of a citation until the licensee has provided documentation that the licensee made up the deficient continuing education.

While addressing IRRC’s question about implementation of civil penalties and the HPLC’s question about monitoring the 6-month period for correcting the deficiency, the Board considered its audit process in more detail. In doing so, the Board realized that its regulations do not impose any specific obligation upon a licensee to comply with the audit. Accordingly, the Board has also revised § 13.402(c) to require a licensee to fully respond to an audit request within 30 days or another time period specified in the audit request.

IRRC next expressed concern about the clarity of proposed § 13.401(d), which requires a licensee who has renewed without having completed the required continuing education to “provide proof of attendance at continuing education courses during the previous biennial registration period as required by § 13.402 (relating to reporting completion of continuing education).” This provision suggests that the licensee must provide proof that during the previous biennium the licensee attended the required continuing education when, by definition, the licensee did not complete the continuing education requirement for that biennium. In other words, this is an impossible burden. In drafting this provision, it was the Board’s intention to refer to the continuing education requirement of the previous biennium, not attendance during the previous biennium. The Board has revised this provision to be clearer.

Finally, IRRC noted that the first sentence of proposed § 13.401(d) referred to excuse from the continuing education requirement “as authorized under the act or this chapter.” However, nowhere in chapter 13 is there any other reference to excusing a licensee from the continuing education requirements. IRRC suggested that the Board either provide specific cross-references or delete this reference. Section 10(b)(4) of the act authorizes the Board to grant a hardship waiver; the Board has not by regulation supplemented this statutory provision. Rather than referring only to this statutory provision, the Board included the phrase “or this chapter” in proposed § 13.401(d) to allow that its regulations might later be amended to provide for hardship or other excuse to the continuing education requirement. Because the Board has not done so yet, it will delete this language from this rulemaking. Should the Board later amend its regulations to address any such excuse, it will also amend this section to reference the other regulation.

Fiscal Impact and Paperwork Requirements

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

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

This rulemaking is authorized by sections 10(b) and 16(a) of the Funeral Director Law (act) (63 P.S. §§ 479.10(b) and 479.16(a)).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 2210, to IRRC and the chairpersons of the HPLC and the SCP/PLC for review and comment.

In preparing the final-form rulemaking, the Board has considered all comments received from IRRC and the HPLC.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, 2010, the final-form rulemaking was approved by the HPLC. On _____, 2010, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2010, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Regulatory Unit Counsel, Department of State, by mail to P.O. Box 2649, Harrisburg, PA 17105-2649, by telephone at (717) 783-7200, or by e-mail at st-funeral@state.pa.us.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 39 Pa.B. 2210.
- (4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Funeral Director Law.

Order

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

- (a) The regulations of the Board at 49 Pa. Code Chapter 13 are amended, by amending §§ 13.231 and 13.401 to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

Michael J. Yeosock, FD, Chairman
State Board of Funeral Directors

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

* * * * *

LICENSE RENEWAL

§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.

(a) A licensee shall register each biennial period to retain the right to practice. Initial registration shall automatically occur when a license is issued. Registration for a biennial period expires on the first day of February of every even numbered year. Unless excused by the Board for good cause under section 10(b)(4) of the act (63 P.S. § 479.10(b)(4)) OR AS PERMITTED UNDER § 13.401(d) (RELATING TO CREDIT HOUR REQUIREMENTS), the Board will not grant an application for renewal of a funeral director license unless the licensee has certified that the licensee has [completed the amount of continuing education required by § 13.401 (relating to credit hour requirements)] complied with the continuing education requirements mandated by section 10(b) of the act (63 P.S. § 479.10(b)) during the biennial period immediately preceding the application for renewal in accordance with §§ 13.401-13.406 (relating to continuing education).

* * * * *

CONTINUING EDUCATION

§ 13.401. Credit hour requirements.

* * * * *

(d) Unless otherwise excused as authorized under the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 17(b) of the act (63 P.S. § 479.17(b)) in accordance with the schedule of civil penalties in § 43b.6 (relating to schedule of civil penalties – funeral directors and funeral establishments). A second or subsequent violation will subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)). Within 6 months after the end of the renewal period during which the required amount of continuing education was not completed, the licensee shall make up the deficiency and shall provide proof of attendance at continuing education courses during the previous biennial registration period as required by AS NECESSARY TO SATISFY THE REQUIREMENT OF § 13.402 (relating to reporting completion of continuing education) FOR THE PREVIOUS BIENNIAL REGISTRATION PERIOD. In addition to any civil penalty assessed under this subsection, failure to provide the Board with proof of the required amount of continuing education within 6 months after the beginning of a biennial period in which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)).

§ 13.402. Reporting completion of continuing education.

* * * * *

(c) The Board will audit licensees to verify compliance with continuing education requirements. A LICENSEE WHO IS BEING AUDITED SHALL FULLY RESPOND TO EACH REQUEST FOR INFORMATION WITHIN 30 DAYS OF THE REQUEST OR OTHER TIME SPECIFIED IN THE REQUEST.

* * * * *

There we no commentators for
Reg. # 16-4818: Continuing Education Enforcement

STATE BOARD OF FUNERAL DIRECTORS

[49 PA. CODE CH. 13]

Continuing Education Enforcement

The State Board of Funeral Directors (Board) proposes to amend §§ 13.231 and 13.401 (relating to biennial registration; unregistered status and inactive status; failure to renew; and credit hour requirements), to read as set forth in Annex A.

Effective Date

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

Statutory Authority

This proposed rulemaking is authorized under sections 10(b) and 16(a) of the Funeral Director Law (act) (63 P. S. §§ 479.10(b) and 479.16(a)).

Background and Need for the Amendment

Section 10(b)(2) of the act requires licensees to complete 6 hours of mandatory continuing education during each biennial renewal period as a condition of license renewal. Under section 11(a)(6) of the act, the Board may take disciplinary action against any licensee who fails to comply with any provision of the act or Board regulations. Disciplinary actions for failing to complete the continuing education requirement in a timely manner invariably result in the licensee being required to pay a civil penalty proportionate to the amount of deficiency and to make up the deficiency promptly. Accordingly, the Board proposes to utilize the more streamlined procedures under section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) (Commissioner of Professional and Occupational Affairs, after consultation with licensing boards in the Bureau of Professional and Occupational Affairs, may promulgate a schedule of civil penalties for violations of the acts or regulations of these licensing boards).

Description of the Proposed Amendments

Under proposed § 13.401(d), a licensee who has not completed the required amount of continuing education would be required to pay a civil penalty, under 49 Pa. Code § 43b.6 (related to schedule of civil penalties—funeral directors and funeral establishments). The civil penalty schedule for continuing education violations (first offense) will be promulgated by the Commissioner of Professional and Occupational Affairs in a separate rule-making package. See 39 Pa.B. 2210 (May 2, 2009). Second or subsequent offenses will subject the licensee to discipline under section 11(a)(6) of the act, which authorizes the Board to discipline a licensee for violating the act or a regulation of the Board. A licensee who did not complete the required amount of continuing education would be required to complete the entire amount of mandatory continuing education and provide the Board with proof within the first 6 months of the renewal period.

The proposed rulemaking would also revise the requirement of § 13.231(a) (unless excused for good cause, the Board will not renew a funeral director's license unless the licensee has certified that the licensee completed the required amount of continuing education). Instead, the licensee would only be required to certify that the licensee has complied with the continuing education requirements "in accordance with §§ 13.401—13.406 (relating to con-

tinuing education)." As discussed previously, the proposed rulemaking would revise those provisions to permit renewal by a licensee who has not completed the required amount of continuing education, conditioned upon paying a civil penalty and making up the deficient hours of continuing education within the first 6 months of the renewal period.

Fiscal Impact and Paperwork Requirements

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

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 22, 2009, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at ST-FUNERAL@state.pa.us, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4818 (continuing education enforcement), when submitting comments.

MICHAEL J. YEOSOCK, FD

Chairperson

Fiscal Note: 16A-4818. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

LICENSE RENEWAL

§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.

(a) A licensee shall register each biennial period to retain the right to practice. Initial registration shall

automatically occur when a license is issued. Registration for a biennial period expires on the first day of February of every even number year. Unless excused by the Board for good cause under section 10(b)(4) of the act (63 P.S. § 479.10(4)), the Board will not grant an application for renewal of a funeral director license unless the licensee has certified that the licensee has **[completed the amount of continuing education required by § 13.401 (relating to credit hour requirements) complied with the continuing education requirements mandated by section 10(b) of the act during the biennial period immediately preceding the application for renewal in accordance with §§ 13.401—13.406 (relating to continuing education).**

* * * * *

CONTINUING EDUCATION

§ 13.401. Credit hour requirements.

* * * * *

(d) Unless otherwise excused as authorized under the act or this chapter, failure to complete the minimum required amount of continuing education during the applicable renewal period will subject the licensee to discipline under section 17(b) of the act (63 P.S. § 479.17(b)) in accordance with the schedule of civil penalties in § 43b.6 (relating to schedule of civil penalties—funeral directors and funeral establishments). A second or subsequent violation will subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)). Within 6 months after the end of the renewal period during which the required amount of continuing education was not completed, the licensee shall make up the deficiency and shall provide proof of attendance at continuing education courses during the previous biennial registration period as required under § 13.402 (relating to reporting completion of continuing education). In addition to any civil penalty assessed under this subsection, failure to provide the Board with proof of the required amount of continuing education within 6 months after the beginning of a biennial period in which the licensee renewed without having completed the required amount of continuing education shall subject the licensee to disciplinary action under section 11(a)(6) of the act (63 P.S. § 479.11(a)(6)).

[Pa B Doc No 09 800 Filed for public inspection May 1, 2009, 9 00 a m]

**STATE BOARD OF
PSYCHOLOGY**

[49 PA. CODE CH. 41]

Qualifications

The State Board of Psychology (Board) proposes to amend §§ 41.1, 41.31, 41.32 and 41.41 and to add § 41.30 (relating to qualifications and documentation necessary for licensure), to read as set forth in Annex A.

A. Effective Date

This proposed rulemaking will become effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*

B. Statutory Authority

The amendments are proposed under the authority of sections 3.2(1), 6(a) and 8(a)(6) of the Professional Psychologists Practice Act (act) (63 P.S. §§ 1203.2(1), 1206(a)(2) and 1208(a)(6))

C. Purpose and Background

This proposed rulemaking has three purposes: (1) reorganize the examination, education and experience provisions into three separate sections; (2) clarify the experience and supervisions requirements; and (3) permit graduates of doctoral degree programs in psychology and a field related to psychology to take the licensing examination after completing their education.

Reorganization

To obtain a license as a psychologist, applicants shall complete educational, experience and examination requirements. The current regulations interweave these requirements. Current §§ 41.31(a) and 41.41 (relating to qualifications for taking licensing examination; and examinations) contain examination provisions; current § 41.31(b) contains the educational requirements; and current experience and supervision requirements are contained in subsection (c). Additionally, current §§ 41.31(c) and 41.32 (relating to standards for supervisors) contains experience and supervision requirements.

In this proposed rulemaking, the Board would reorganize the education, examination and experience requirements into three separate sections—§ 41.31 for educational requirements, § 41.32 for experience requirements and § 41.41 for examination requirements

Clarification of experience and supervision requirements

The act requires 2 years of supervised experience to obtain a license. One year of that experience is obtained as part of the doctoral degree program and is administered by the program's internship director. The other year of supervision is completed after graduation. The Board currently defines the year as 1,500 hours of supervised experience of which 50% of the hours must be obtained in clinical practice. The remaining hours may be in clinical practice or in research. In reviewing this experience, the Board determined that 1,750 hours more accurately reflects an actual year of practice calculated at an average of 35 hours per week excluding vacations, holidays and sick days. This increased time frame is also consistent with the experience required in neighboring jurisdictions, including New York, New Jersey, Maryland, Ohio and the District of Columbia.

Additionally, the Board receives numerous telephone, mail and e-mail inquiries from students pursuing their doctoral degrees, doctoral degree graduates, primary and delegated supervisors and potential primary and delegated supervisors seeking clarification about experience timing, settings and supervisory responsibilities and prohibitions. The Board believes that the proposed amendments will provide clarity with regard to these issues.

Examination changes

Current examination requirements prohibit applicants from taking the licensure examination until after completing their experience. In this proposed rulemaking, the Board proposes to remove this prohibition and permit applicants to take the examination at any time after



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF FUNERAL DIRECTORS

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-3397

June 25, 2010

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

Re: Final Regulation
State Board of Funeral Directors
16A-4818: Continuing Education Enforcement

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Funeral Directors pertaining to Continuing Education Enforcement.

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

Sincerely,
Handwritten signature of Michael J. Yeosock in black ink.

Michael J. Yeosock, Chairperson
State Board of Funeral Directors

MJY/TAB:rs

Enclosure

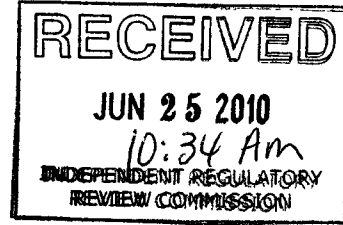
cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Steven V. Turner, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel & Senior Counsel in Charge
Department of State
Thomas A. Blackburn, Counsel
State Board of Funeral Directors
State Board of Funeral Directors

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

I.D. NUMBER: 16A-4818
 SUBJECT: CONTINUING EDUCATION ENFORCEMENT
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF FUNERAL DIRECTORS

TYPE OF REGULATION

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



FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
6/25/10	<i>Clair Nichols</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
6/25/10	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
6/25/10	<i>K. Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)