

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Department of State, Bureau of Professional and
Occupational Affairs

(2) Agency Number: 16A

Identification Number: 6807

IRRC Number: 3028

(3) PA Code Cite:

49 Pa. Code §§ 45.1, 45.501 – 45.505, 45.507

(4) Short Title:

Continuing education

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

Primary Contact: Thomas Blackburn, Regulatory Unit Counsel, Department of State;
(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; tblackburn@pa.gov

Secondary Contact: Cynthia K. Montgomery, Regulatory Counsel, Department of State
(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; cymontgome@pa.gov

(6) 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

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

In 2006 the State Board of Examiners in Speech-Language and Hearing (Board) initially promulgated regulations to implement the continuing education requirements of section 5(7) of the Speech-Language and Hearing Licensure Act (act) (63 P.S. § 1705(7)) effective with the August 1, 2008, through July 31, 2010, renewal cycle. Based upon the Board's experience in applying those regulations through two full renewal periods, the Board proposes to amend the regulations for greater clarity and completeness. Among other things, the proposed amendments would waive the continuing education requirement during the first renewal period of licensure, prohibit carryover of excess CE, require dual licensees to complete the required amount of CE for each license, prohibit licensees from getting credit for repeating substantially the same CE course during a renewal period, and provide for deficiencies to be made up within 6 months.

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

The rulemaking is authorized under Sections 5(2) and 5(7) of the act (63 P.S. §§ 1705(2), 1705(7)).

RECEIVED

IRRC

2013 SEP 25 AM 10:19

(9) 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 or federal regulation.

(10) 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.

See the response to question (7). In complying with the continuing education requirements, licensees will benefit from the increased clarity and completeness of the regulations.

(11) 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 is not more stringent and does not overlap or conflict with any federal requirements.

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

Speech-language pathologists and audiologists licensed in Delaware must complete 30 hours of continuing education during each 2-year license renewal period. One who was first licensed in the last year of the renewal period is not required to complete CE during that renewal period; one who was first licensed during the first year of that renewal period is required to complete only 15 hours of CE for that period. Dual licensees must complete 15 hours of CE for each license. No provision is made for carry-over of credit from one renewal period to another, and no provision is made for repetition of substantially similar courses.

In Maryland, speech-language pathologists and audiologists are required to complete 30 hours of continuing education during each 2-year renewal period. A dual licensee must complete 50 hours of CE. Carryover of credit is not permitted. The CE requirement is waived for a person first licensed in the last 6 months of the renewal period and prorated for a person first licensed earlier during that renewal period. No provision is made for repetition of substantially similar courses.

In New Jersey, speech-language pathologists and audiologists are required to complete 20 hours of continuing education during each 2-year renewal period. A licensee who has exceeded the required amount of CE may carryover up to 5 hours of excess CE earned during the final 6 months of the renewal period. No provision is made for dual licensees or repetition of substantially similar courses. Although no specific provisions are made for waiver during the initial cycle of licensure, the CE requirement may be waived "for due cause."

Speech-language pathologists and audiologists in New York are required to maintain continuing competency by completing at least 30 hours during each 3-year registration period. Except for those previously licensed in another state, licensees are exempt from the continuing competency requirement during the first period of licensure. Dual licensees must complete the required amount of continuing competency activity for each license, though up to 10 hours in a related subject may be applied to both. No provision is made for repetition of substantially similar

courses.

Speech-language pathologists and audiologists in Ohio are required to complete 20 hours of continuing education during each 2-year renewal period. Licensees are not required to complete CE during the first renewal period of licensure. Excess hours may not be carried over into a subsequent renewal period. A dual licensee must complete 20 hours for each license, although a course may be applied fully to each license to which its subject is appropriate. No provision is made for repetition of substantially similar courses.

Speech-language pathologists and audiologists in West Virginia are required to complete 20 hours of CE during each 2-year licensure period. A person initially licensed during the last 6 months of the licensure period is not required to complete CE as a condition of renewal. A licensee who exceeds the required amount may carryover up to 6 excess hours of CE into the next period. A dual licensee must complete 15 hours of CE for each license. No provision is made for substantially similar courses.

Because the proposed amendments would result in CE requirements substantially similar to those of the surrounding states or less restrictive, the proposed rulemaking would not put Pennsylvania at a competitive disadvantage with other states.

(13) 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 not affect other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

In December, 2011, the Board indicated that it intended to revise the continuing education requirements and solicited comments from a large number of persons and organizations of interested persons. Only the Pennsylvania Speech-Language and Hearing Association (PSHA) responded, indicating that it supported the exposure draft of proposed rulemaking. The Board continued to discuss this rulemaking at its public meetings in July and September, 2012. Its meetings are open to the public and are generally attended by organizations representing, among others, the regulated community. Representatives of PSHA and the Pennsylvania Academy of Audiology attend virtually every meeting of the Board.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

All licensees of the Board would be affected by the proposed rulemaking. The Board currently licenses approximately 6200 speech-language pathologists, 870 audiologists, and 60 teachers of the hearing impaired. According to the Pennsylvania Department of Labor and Industry, in 2008 (the most recent year for which data is available) 32.1% of speech-language pathologists in Pennsylvania were employed in elementary and secondary schools, 16.5% were employed in office of health care practitioners other than physicians, 10.8% were employed by general medical and

surgical hospitals, 6.5% were self-employed, 5.1% were employed in nursing care facilities, 4.2% were employed in other hospitals, 3.5% were employed by individual and family services, 2.5% were employed by home healthcare services, 2.0% were employed in physician offices, and 1.6% were employed in outpatient care centers. According to L&I, in 2008 31.8% of audiologists in Pennsylvania were employed in physician offices, 7.8% in elementary and secondary schools, 7.6% were self-employed, and 5.7% were employed in general medical and surgical hospitals; data for employment in health and personal care stores, office of other health care practitioners, other hospitals, electronic instrument manufacturing, outpatient care centers and other ambulatory healthcare services is marked confidential. Although no data is available for teachers of the hearing impaired, it is reasonable to assume that substantially all are employed in schools.

Section 3 of the Regulatory Review Act provides that a small business is defined by the U.S. Small Business Administration's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where speech-language pathologists and audiologists work, a physician office is a small business if it has \$10.0 million or less in total average annual receipts and any other healthcare office is a small business if its average annual receipts are less than \$7.0 million. Home healthcare is a small business if it has less than \$14.0 million in average annual receipts. Similarly, a general medical or surgical hospital is a small business if it has less than \$34.5 in average annual receipts. A nursing care facility is a small business if its average annual receipts are less than \$25.5 million. An outpatient care center is a small business its average annual receipts are less than \$14.0 million. Those who are self-employed are presumed to be a small business. An elementary or secondary school is considered to be a small business if its average annual revenue is less than \$10.0 million.

In considering all of these small business thresholds set by NAICS for the businesses in which speech-language pathologists and audiologists work, it is probable that, except for those employed by school districts or intermediate units, the vast majority of licensees work in small businesses.

As noted in response to question (17), the proposed amendments impose no additional paperwork requirements or administrative burdens and require no additional investment in equipment. Accordingly, there should be no disproportionate impact upon small businesses as a result of compliance with the proposed rulemaking.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

See the response to question (15). All licensees of the Board will be required to comply with the rulemaking.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The Board does not expect this rulemaking to have any financial, economic or social impact on individuals, small businesses, businesses or labor communities or other public or private organizations.

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

The above-identified benefits of the rulemaking outweigh any cost or adverse effect.

(19) 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 or savings to the regulated community associated with compliance with the rulemaking.

(20) Provide a specific estimate of the costs and/or savings to the **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.

(21) Provide a specific estimate of the costs and/or savings to the **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.

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

This rulemaking would not require any additional recordkeeping or other paperwork for implementation.

(23) 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						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
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

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Pa. State Bd. of Examiners in Speech-Language and Hearing	(actual) \$168,497	(actual) \$165,852	(actual) \$141,307	(budgeted) \$202,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The Board does not expect this rulemaking to have any adverse impact on small businesses. There will be no projected additional reporting, recordkeeping or other administrative costs required for compliance with the rulemaking. There are no less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

(25) List any special provisions which 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.

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.

(26) 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.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

Because it does not expect this rulemaking to have any adverse impact on small businesses, the Board did not conduct a regulatory flexibility analysis. All licensees must complete continuing education on a biennial basis, so less stringent standards for those employed by small businesses would be contrary to the public health, safety and welfare, and would not be consistent with the legislative intent.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

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

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

- | | |
|---|---------------------------------------|
| A. The date by which the agency must receive public comments: | <u>30 days after publ.</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>within 2 years of publ.</u> |
| D. The expected effective date of the final-form regulation: | <u>final publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>effective date</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>effective date</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings. The Board is scheduled to meet on the following remaining dates in 2013: July 12, September 27, and December 6. More information can be found on the Board's website (linked as a health-related board from www.dos.state.pa.us/bpoa).

RECEIVED
IRRC

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU 2013 SEP 25 AM 10:19

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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

SEP 16 2013

DATE OF APPROVAL

State Board of Examiners in Speech
Language and Hearing

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-6807

AUG 01 2013

DATE OF APPROVAL

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

DATE OF ADOPTION:

BY:

James L. Shafer, Au.D.

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

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

PROPOSED RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE AND HEARING

49 Pa. Code §§ 45.1, 45.501-45.505
CONTINUING EDUCATION

The State Board of Examiners in Speech-Language and Hearing (Board) proposes to amend §§ 45.1, 45.501-45.505 and 45.507, to read as set forth in Annex A.

Effective Date

The proposed amendment would become effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

Section 5(2) of the Speech-Language and Hearing Licensure Act (act) (63 P.S. § 1705(2)) authorizes the Board to adopt and revise rules and regulations consistent with the act as may be necessary to implement the provisions of the act. Section 5(7) of the act specifically authorizes the Board to establish standards of eligibility for license renewal, which shall include demonstration of satisfactory completion of continuing education.

Background and Need for the Rulemaking

In 2006, the Board promulgated initial regulations concerning continuing education. Having now applied the continuing education requirements during two subsequent renewal cycles, the Board has identified areas of the regulations where clarity or completeness could be improved.

Description of Proposed Amendments

Under § 45.501(a) (relating to credit hour requirements), each speech-language pathologist, audiologist or teacher of the hearing impaired is required to complete 20 clock hours of continuing education during each biennial renewal period. However, because some individuals are licensed in more than a single profession regulated by the Board, the question was raised whether such a licensee is required to complete 20 clock hours of continuing education for each license or only a total of 20 clock hours. The Board proposes to amend § 45.501(a) to make clear that 20 clock hours of continuing education are required during each biennium for each license held. Also, the current regulations do not address carry-over of excess credit from one biennium to the next or repeating continuing education activities. The Board proposes to amend § 45.501(a) to prohibit the carry-over of credit to a subsequent biennium and to add § 45.501(d) to prohibit a licensee from receiving credit for participation in substantially the same program more than once during a single renewal cycle.

Under § 45.501(b), a licensee who serves as a lecturer or speaker or who publishes an article or book relating to the practice may receive up to 10 clock hours of approved continuing education per biennial renewal period. Because the regulations do not currently address the method for determining the amount of credit, the Board proposes to amend § 45.501(b) to provide that an instructor of an approved or preapproved program will receive credit to the same extent as an attendee will receive credit. The proposed amendment would also clarify that the instructor is not required to apply separate from the provider's application for course approval in order to obtain teaching credit. A licensee seeking credit for instruction, presentation or

publication is required to submit a written request for approval along with supporting documentation. Although the current regulations do not clearly specify a fee to be charged for review of the request, the Board has charged for review of continuing education credit for speaking or publication the same fee that it charges a provider for review of a course or program of continuing education. The Board proposes to amend § 45.501(b) to clearly require that the fee specified in § 45.1 (relating to fees) be paid. Under § 45.1(a)(5), the Board charges an application fee of \$40 for “continuing education course approval.” In order to include speaker and publication credit and to make clear that this fee is not charged to preapproved providers, the Board proposes to amend this description as “continuing education approval (other than preapproved provider).” Additionally, the Board proposes to delete as obsolete § 45.1(b), which addresses payment of an initial fee by one licensed before 1988.

Current § 45.502(a) (relating to exemption and waiver) exempts “an individual applying for initial licensure ... from the continuing education requirement for the biennial renewal in the period following that in which the license is granted.” This language could be interpreted to mean that a new licensee could receive a license, renew it as much as 20 or more months later and then not be required to complete continuing education during the following 24-month renewal period. The Board’s intent in promulgating this provision was that a new licensee would not be required to complete continuing education during the balance of that first biennium to renew the license for a full biennial renewal period. To fully effectuate this intent, the Board is also proposing to rewrite § 45.502(a) to provide that “a licensee is not required to complete continuing education during the biennial renewal period in which the licensee was first licensed to renew for the next biennium.”

Section 5(7) of the act authorizes the Board to waive all or part of the continuing education requirement for a licensee who shows to the satisfaction of the Board that the licensee was unable to complete the requirement due to illness, emergency or hardship and requires the licensee to make the request in writing, with appropriate documentation, describing the circumstances sufficient to show why the licensee is unable to comply with the requirement. Existing § 45.502(b) addresses this process. Because the Board has received requests so late in the biennial renewal period that it has not been able to rule before the beginning of the new biennium, the Board is proposing to amend § 45.502(b) to require that the request be submitted at least 60 days prior the license’s expiration date, except for good cause shown. In addition to the circumstances that cause the licensee’s hardship, the Board typically considers the extent to which the licensee has already completed continuing education in deciding whether to waive the requirement or grant an extension for a temporary hardship. Also, because oftentimes the circumstances result from unexpected events at the last minute that keep a licensee from participating in continuing education as planned, the Board will sometimes grant a limited extension of time in which to complete continuing education rather than waive the requirement entirely. In order to obtain this necessary information up front, the Board also proposes amending § 45.502(b) to require the request for waiver to include a statement of how much continuing education has been completed already and, if seeking only an extension of time, the licensee’s plan to complete the continuing education requirement.

Under § 45.503 (relating to continuing education requirement for biennial renewal of inactive and lapsed licenses), a licensee seeking to reinstate an inactive or lapsed license is

required to provide proof of compliance with the continuing education requirement for the preceding biennium. Because the purpose of continuing education is to assure the licensee's continued competence, a licensee who is seeking to reactivate late in the current biennium should not be able to rely upon continuing education completed early in the prior cycle – as much as 48 months earlier – to show current competence. Accordingly, the Board proposes to add a provision to this section to require a licensee seeking to reactivate a license to show a cycle's worth of continuing education in the 24-month period immediately preceding the application for reactivation. However, consistent with the proposed prohibition of § 45.501(a) against carry-over of credit, it would also prohibit the licensee from satisfying the subsequent renewal requirement with any of the continuing education completed for reactivation. Also, because the appropriate action is to reactivate, rather than renew, a license that is inactive or lapsed, the Board proposes to amend § 45.503 and its title to use the term reactivate or reactivation rather than renew or renewal, respectively.

Current § 45.504(a) (relating to reporting completion of continuing education) requires “applicants at the time of license renewal” to certify completion of required continuing education. In order to clarify that this requirement is for existing licensees seeking renewal and not applicants seeking licensure coincidentally at the change in renewal periods, the Board proposes to revise § 45.504(a) to refer to “licensees applying for biennial license renewal.”

The Board has set up in § 45.505 (relating to approval of continuing education programs) a process for the Board to review and approve continuing education programs. Under § 45.505(c)(4), the provider's application must contain a schedule of the program, including the title and description of each subject and the name of the lecturers. However, because the title and description of each subject are not always sufficient for the Board to determine the appropriateness of the program content, the Board proposes to amend § 45.505(c)(4) to require the application to include the course content. The Board also proposes to amend this paragraph to require the application to include with the name of lecturers a brief synopsis of the lecturer's qualifications, because the reviewing Board members cannot be expected to be familiar with every possible lecturer. This is not duplicative of the requirement of § 45.505(b)(3) for faculty names and credentials, as the lecturer and the course planner may be different individuals. Moreover, this synopsis is not a full curriculum vitae that the Board might request under § 45.505(b)(3).

Under § 45.505(d)(3), the Board has provided that courses and programs offered by academic programs in speech-language pathology, audiology or teaching of the hearing impaired associated with accredited institutions are preapproved. This provision was intended to apply to courses that are part of the academic training and not the “not-for-credit” courses that such an institution might provide. Accordingly, the Board proposes to amend this paragraph to limit preapproved status to courses and programs offered for credit by such academic programs. In considering this point, the Board further reviewed the documentation of successful completion of such a program – typically a transcript rather than a traditional continuing education certificate. Licensees are required by § 45.504(b) to maintain a certified continuing education record in the event of an audit. Although concluding that a transcript would satisfy the requirements of § 45.506(b) as a continuing education record, the Board proposes to add § 45.504(d) to make clear that an official transcript of a for-credit course in an accredited institution is adequate proof of

successful completion.

Finally, existing § 45.507 (relating to disciplinary action authorized) provides for disciplinary action for licensees who submit fraudulent continuing education records to the Board or who fail to complete the required continuing education requirement within a particular biennial renewal period. Through the Commissioner of Professional and Occupational Affairs, the Board previously established a schedule of civil penalties for continuing education violations at § 43b.16a (relating to schedule of civil penalties – audiologists, speech-language pathologists and teachers of the hearing impaired) in order to make use of the more streamlined “citation” process for continuing education violations. The Board has now determined that there is a need to codify the Board’s practice of requiring individuals disciplined for failure to complete continuing education to make up all deficiencies within 6 months of receiving notice of the deficiency, especially in citation proceedings. To that end, the Board proposes to amend § 45.507 to add subsection (c), which imposes a duty to make up deficient continuing education hours, notwithstanding any disciplinary taken for the violation; and to add subsection (d) to provide notice that failure to make up the deficient continuing education as required may subject the licensee to further disciplinary action.

Fiscal Impact and Paperwork Requirements

The rulemaking would not have a fiscal impact on, or create additional paperwork for, the regulated community, the general public, or the Commonwealth and its political subdivisions.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 25, 2013, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, by mail to P.O. Box 2649, Harrisburg, PA 17105-2649 or by e-mail at st-speech@pa.gov, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-6807 (continuing education) when submitting comments.

James L. Shafer, Au.D., Chairperson
State Board of Examiners in Speech-
Language and Hearing

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 45. STATE BOARD OF EXAMINERS IN

SPEECH-LANGUAGE AND HEARING

Subchapter A. GENERAL PROVISIONS

§ 45.1. Fees.

[(a)] The following are the fees set by the State Board of Examiners in Speech-Language and Hearing:

* * * * *

(5) Application for continuing education [course] approval (other than preapproved provider)\$40

[(b)] The Board will require payment of the initial license fee by individuals who were issued licenses without fee prior to July 30, 1988.]

* * * * *

Subchapter G. CONTINUING EDUCATION

§ 45.501. Credit hour requirements.

(a) Each speech-language pathologist, audiologist or teacher of the hearing impaired shall have completed 20 clock hours of continuing education per license during each preceding biennial renewal period, beginning with the renewal period commencing August 1, 2008. Excess clock hours may not be carried over to the next biennium.

(b) Up to 10 clock hours of approved continuing education credit per biennial renewal period

may be granted on a case-by-case basis for services as a lecturer or speaker, and for publication of articles, books and research relating to the practice of speech-language pathology, audiology or teaching of the hearing impaired. A licensee seeking continuing education credit under this subsection shall submit a written request with a copy of the lecture, presentation, article, book or research and a fee for continuing education approval as required by § 45.1 (relating to fees). The request shall be submitted 180 days prior to the expiration of the biennial renewal period for which the licensee is seeking credit. An instructor of a program approved under § 45.505 (relating to approval of continuing education programs) will receive credit to the same extent that an attendee will receive credit and is not required to apply for approval under this subsection.

* * * * *

(d) A licensee may not receive credit for participation in substantially the same program more than once during a single renewal cycle.

§ 45.502. Exemption and waiver.

(a) [An individual applying for initial licensure shall be exempt from the continuing education requirement for the biennial renewal in the period following that in which the license is granted.] A licensee is not required to complete continuing education during the biennial renewal period in which the licensee was first licensed in order to renew for the next biennium.

(b) The Board may waive all or part of the continuing education requirement for a biennial renewal period upon request of a licensee. The request must be made in writing, with supporting documentation, and include a statement of how much continuing education the licensee has completed and a description of circumstances sufficient to show why compliance is impossible. Except for good cause shown, a licensee seeking a waiver shall submit the request to the Board at least 60 days before the current expiration date of the license in order for the Board to evaluate

the request prior to expiration of the license. Waiver requests will be evaluated by the Board on a case-by-case basis. Waivers may be granted for serious illness, military service or other demonstrated hardship. A waiver request seeking an extension of time to complete required continuing education shall also include the licensee's plan to complete the required continuing education. The Board will send written notification of its approval or denial of a waiver request.

§ 45.503. Continuing education requirement for [biennial renewal] reactivation of inactive and lapsed licenses.

A licensee seeking to [reinstate] reactivate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennial period. Only continuing education obtained during the 24-month period immediately preceding application for reactivation may be used to justify reactivation. This continuing education is in addition to any continuing education required to subsequently renew the license under § 45.501(c) (relating to credit hour requirements).

§ 45.504. Reporting completion of continuing education.

(a) [Applicants at the time of] Licensees applying for biennial license renewal shall provide, on forms provided by the Board, a signed statement certifying that the continuing education requirement has been met and information to support the certification which includes the following:

* * * * *

(d) In lieu of the continuing education record required by subsection (b), a licensee who successfully completed a program preapproved under § 45.505(d)(3) (relating to approval of continuing education programs) may document completion via an official transcript of the institution.

§ 45.505. Approval of continuing education programs.

* * * * *

(c) An application must contain:

* * * * *

(4) A schedule of the program, including the title and description of each subject, the course content, the name and brief synopsis of qualifications of the lecturers and the time allotted.

* * * * *

(d) The following programs are deemed approved for continuing education credit:

* * * * *

(3) Courses and programs offered for credit by academic programs in speech-language pathology, audiology or teaching of the hearing impaired associated with institutions accredited by any state's department of education or a regional commission on institutions of higher education.

* * * * *

§ 45.507. Disciplinary action authorized.

* * * * *

(c) Notwithstanding any discipline imposed by the Board under subsection (b), whether by formal disciplinary proceedings or by issuance of a citation as set forth in § 43b.16a (relating to schedule of civil penalties – audiologists, speech-language pathologists and teachers of the hearing impaired), a licensed speech-language pathologist, audiologist or teacher of the hearing

impaired who has been found to be deficient in continuing education hours shall make up all deficiencies within 6 months of receiving notice of the deficiency.

(d) Failure to make up deficient continuing education hours as required by subsection (c) may subject the licensed speech-language pathologist, audiologist or teacher of the hearing impaired to further discipline under section 10 of the act.

* * * * *



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF EXAMINERS
IN SPEECH-LANGUAGE AND HEARING**

**Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-1389**

September 25, 2013

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Board of Examiners in Speech-Language and Hearing
16A-6807: CONTINUING EDUCATION

Dear Chairman Lutkewitte:

Enclosed is a copy of a proposed rulemaking package of the State Board of Examiners in Speech-Language and Hearing pertaining to 16A-6807: Continuing Education.

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

Sincerely,

A handwritten signature in black ink, appearing to read "J. L. Shafer".

James L. Shafer, Au.D., Chairperson
State Board of Examiners in Speech-Language and Hearing

JLS/TAB/tem
Enclosure

cc: Kathy J. Barley, Acting Commissioner
Professional and Occupational Affairs
Patricia Allen, Director of Policy, Department of State
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Judith Pachter Schulder, Counsel
State Board of Examiners in Speech-Language and Hearing
State Board of Examiners in Speech-Language and Hearing

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

I.D. NUMBER: 16A-6807

SUBJECT: CONTINUING EDUCATION

AGENCY: DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE AND
HEARING

TYPE OF REGULATION

X Proposed Regulation

Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions b. Without Revisions

2013 SEP 25 AM 10:19

RECEIVED
IRRC

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
9/25/13	Angie Kelly	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
		MAJORITY CHAIR <u>Julie Harhart</u>
		MINORITY CHAIR _____
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
9-25-13	Joe Flynn	MAJORITY CHAIR <u>Robt M Tomlinson</u>
		MINORITY CHAIR _____
9/25/13	K Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
9/25/13	Samuelson	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

September 17, 2013