

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0; font-size: small;">(All Comments submitted on this regulation will appear on IRRC's website)</p>	<p style="margin: 0;"><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p> <div style="border: 2px solid black; padding: 10px; margin: 0 auto; width: 80%;"> <p style="margin: 0; font-size: 2em; letter-spacing: 0.5em;">RECEIVED</p> <p style="margin: 5px 0 0 0;">NOV 30 2021</p> <p style="margin: 0; font-size: small;">Independent Regulatory Review Commission</p> </div> <p style="margin: 10px 0 0 0;">IRRC Number: 3281</p>
<p>(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors</p>	
<p>(2) Agency Number: 16A Identification Number: 6919</p>	
<p>(3) PA Code Cite: 49 Pa. Code §§ 47.12, 47.32, 47.51—47.59, 48.12, 48.32, 48.51—48.59, 49.12, 49.32 and 49.51—49.59</p>	
<p>(4) Short Title: Child Abuse Reporting Requirements</p>	
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Cynthia Montgomery, Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-5923 (phone 717-783-7200) (fax 787-0251) cymontgome@pa.gov or</p> <p>Secondary Contact: Jaime Black, Board Counsel, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) jaiblack@pa.gov</p>	
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> Proposed Regulation</p> <p><input checked="" type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>This rulemaking is needed to update the Board's existing regulations on the subject of child abuse reporting to be consistent with amendments to the Child Protective Services Law (CPSL) (23 Pa.C.S. §§ 6301-6388), including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) (Act 31 of 2014) on all health-related boards to require training in child abuse recognition and reporting for licensees who are considered "mandated reporters" under the CPSL.</p>	
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P.S. § 1906(2)) sets forth the Board's general rulemaking authority. Under sections 6301—6388 of 23 Pa.C.S. (relating to Child Protective Services Law), specifically, section 6383(b)(2) of the CPSL (relating to education and training), the Board is required to promulgate regulations to implement the mandatory reporting requirements for licensees of the Board.</p>	

(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.

Yes, section 6383(b)(2) of the CPSL requires the Board to promulgate regulations to implement the mandatory reporting requirements for licensees of the Board.

(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.

Beginning in 2014, and continuing through 2019, the General Assembly has made numerous amendments to the CPSL, including the requirement imposed by Act 31 of 2014 on all health-related Boards to require licensees who are considered "mandated reporters" complete mandatory training in child abuse recognition and reporting. This rulemaking is required to update the Board's existing regulations on the subject of child abuse reporting to be consistent with the numerous amendments made to the CPSL, and to incorporate the mandatory training requirements required by Act 31 of 2014, which the Board implemented as required at the beginning of 2015. All applicants and licensees will benefit by receiving mandatory training with regard to their responsibilities under the CPSL, and all Pennsylvania children will benefit from the increased protections provided by the amendments. Licensees will further benefit from regulations that are consistent with the CPSL, as amended, to avoid confusion as to their responsibilities in this area.

(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.

No. There are no federal standards on the topic.

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

This regulation will not adversely affect Pennsylvania's ability to compete with other states. All surrounding states also have regulations on reporting child abuse.

In Connecticut, in accordance with CT Statutes chapter 319a - Child Welfare, Sec. 17a-101, certain health-related professionals, including social workers, licensed marital and family therapists, and licensed professional counselors, are mandated to report suspected child abuse or neglect to the Department of Children and Families' Child Abuse and Neglect Careline or a law enforcement agency. Oral reports must be made within 12 hours of the moment the mandated reporter suspects that abuse or neglect has occurred, followed by a written report within 48 hours. Failure to meet reporting responsibilities may subject the mandated reporter to criminal prosecution and possible action against the individual's license. While training is not mandatory, free training is available to all mandated reporters.

In Delaware, under Title 16 Del. Code § 903, all persons are required to make an immediate report to the Department of Services for Children, Youth and their Families when they know of, or suspect, child abuse or neglect and to follow up with any required written reports. Delaware now accepts electronic

reports at the Delaware Division of Family Services Reporter Portal, but can also accept oral reports to their telephone hotline. Mandatory reporter training is available through the Office of the Child Advocate. Individuals who fail to report child abuse or neglect may be liable to a civil penalty of not to exceed \$10,000 for a first offense, or not to exceed \$50,000 for subsequent violations. Licensees of the Delaware Board of Social Work Examiners may be subject to disciplinary action for failing to report child abuse or neglect. (Title 24 Del. Code § 3915). The Delaware Board of Mental Health and Chemical Dependency Professionals, which licenses marriage and family therapists and professional counselors, likewise, is authorized to discipline its licenses for failing to report child abuse or neglect. (Title 24 Del. Code § 3009).

In Maine, child abuse or neglect reports must be made immediately by telephone to the Department of Health and Human Service, Office of Child and Family Services' hotline. Under Title 22 of the Maine Revised Statutes § 4011-A, mandated reporters, including a guidance counselor, a social worker, a mental health professional, and even a chair of a professional licensing board that has jurisdiction over mandated reporters, must immediately make a report when that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred. Both the Maine State Board of Social Worker Licensure and the Maine Board of Counseling Professionals Licensure may discipline a licensee for failure to report incidences of child abuse or neglect as mandated by state law. In Maine, mandated reporters shall complete mandated reporter training at least once every 4 years.

In Maryland, under MD Family § 5-701—5-715 (relating to child abuse and neglect) all health practitioners and human service workers are required to report both orally and in writing any suspected child abuse or neglect. Oral reports must be made immediately and written reports must be made within 48 hours of contact in which the disclosure of the suspected abuse or neglect was given. All reports of abuse must be made to the local departments of social services and the appropriate law enforcement agency. If a licensee knowingly fails to report suspected abuse of a child, they may be subject to professional sanctions by licensing boards. As of October 1, 2019, there are now criminal penalties for mandated reporters who knowingly fail to report child abuse. Under MD Criminal Code § 3-606.2, a mandated reporter having actual knowledge of abuse or neglect who knowingly fails to make a required report commits a misdemeanor and is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 3 years, or both. Anyone making a good faith report is immune from civil liability and criminal penalty. While not required, mandated reporter training is available.

In Massachusetts, under Massachusetts General Law Annotated 119 § 51A, social workers, counselors and therapists are considered mandated reporters, and must report to the Department of Children and Families when they suspect that a child is being abused or neglected immediately by telephone to the DCF area office that services the city or town where the child lives or the Child-at-Risk Hotline. As a mandated reporter, it is also required by law to mail or fax a written report to the Department within 48 hours of making the oral report. Mandated reporters are required to report any physical or emotional injury resulting from abuse; any indication of neglect, including malnutrition; any instance in which a child is determined to be physically dependent upon an addictive drug at birth; any suspicion of child sexual exploitation or human trafficking; or death as a result of abuse or neglect. Failure to make required reports subjects the mandated reporter to fines up to \$1,000 for a first offense. A mandated reporter that willfully fails to report child abuse or neglect that results in serious bodily injury or death is subject to a fine of up to \$ 5,000 and 2 ½ years in jail, and be reported to the person's professional licensing board. All mandated reporters who are professionally licensed are required to complete training to recognize and report child abuse and neglect. DCF has an online training video available for mandatory reporters.

In New Hampshire, under N. H. Rev. Stat. § 169-C:29, all therapists, counselors and social workers (among others) having reason to suspect that a child has been abused or neglected are required to report such to the Central Intake Unit of the New Hampshire Division for Children, Youth and Families. An oral report shall be made immediately by telephone or otherwise, and followed within 48 hours by a report in writing, if requested. Individuals who make a good faith report have immunity from civil and criminal liability; and privileged communications between a professional and their patient/client is does not apply and does not excuse the failure to report. Failure to report is a misdemeanor. Training on the reporting requirements is not required.

In New Jersey, under N.J.S.A 9:6-8.8—8:6-8.20 (relating to abused child—reports and protective custody) any person having reasonable cause to believe that a child has been subjected to abuse, including sexual abuse, shall report immediately to the State Central Registry’s hotline. Individuals making reports of child abuse have immunity from civil or criminal liability. Any person who knowingly fails to report suspected abuse or neglect according to the law or to comply with provisions of the law is a “disorderly person.” However, if the failure to report involves sexual abuse it is a crime of the fourth degree. The New Jersey Department of Children and Families offers an online Mandated Reporter Training resource.

In New York, under NY Soc Serv § 413, any social worker, licensed marriage and family therapist, licensed mental health counselor (among others) are required by law to report suspected abuse or maltreatment to the New York Statewide Central Register of Child Abuse and Maltreatment whenever they have reasonable cause to suspect that a child coming before them in their professional or occupational capacity is an abused or maltreated child. The law also assigns civil and criminal liability to those professionals who do not comply with their mandated reporter duties; including being criminally charged with a Class A misdemeanor, being subject to criminal penalties, and being sued in a civil court for monetary damages for any harm causes by the failure to report. Reasonable cause to suspect child abuse or maltreatment means that, based on one’s observations, professional training and experience, a licensee believes the parent or person legally responsible for a child has harmed that child or placed that child in imminent danger or harm. In addition, New York requires individuals, when applying initially for licensure, to complete 2 hours of coursework or training in the identification and reporting of child abuse and maltreatment. This is a one-time requirement and once taken does not need to be completed again. The New York State Education Department, Office of the Professions oversees the training requirements for mandated reporters.

In Ohio, under Ohio R. C. § 2151.421, all health care professionals, including social workers, marriage and family therapists and professional counselors, are mandated to report if a child under the age of eighteen or a mentally retarded, developmentally disabled, or physically impaired person under the age of twenty-one has been abused or neglected. A licensee making a report shall make it to the Ohio Department of Job and Family Services hotline, or to the public children services agency or municipal or county peace officer in the county in which the child resides. The report must be made immediately by telephone or in person and must be followed by a written report if requested. Failure to report is generally a misdemeanor. There does not appear to be a mandatory training requirement in Ohio.

In Virginia, under Title 63.2 of the Code of Virginia § 63.2-1509, any person employed as a social worker or family services specialist, and any mental health professional must report if they have reason to suspect a child is an abused or neglected child immediately to the local department of the county or city where the child resides, where the abuse or neglect is believed to have occurred, or to the Department of Social Service’s toll-free child abuse and neglect hotline. A person making a good faith

report is immune from criminal or civil liability. Any person required to file a report who fails to do so, shall be fined not more than \$500 for the first failure and for any subsequent failures not more than \$1,000 and may be charged with a Class 1 misdemeanor. Mandated reporter training on recognizing and reporting child abuse and neglect is available on the Virginia Department of Social Services website.

In West Virginia, under W.Va. Code § 49-2-801, any mental health professional is required to report suspected child abuse or neglect. When a licensee suspects that a child is being abused or neglected, or observes a child being subjected to conditions that are likely to result in abuse or neglect, or believes that a child has suffered serious physical abuse, sexual abuse or sexual assault, a report must be made to the Child Protective Services unit in the county office of the Department of Health and Human Resources where the licensee is located or the State Police or other law enforcement agency that has jurisdiction to investigate the report. The Department of Health and Human Resources maintains a 24-hour toll free reporting hotline. Reports must be made immediately by phone and followed up within 48 hours by a written report, if requested. Anyone making a good faith report is immune from civil or criminal liability. Failure to file a required report is a misdemeanor, punishable by imprisonment up to 90 days, a fine of up to \$5,000, or both. There does not appear to be a mandatory training requirement.

Based on these requirements from other states, in which licensees are universally required to report child abuse or neglect and therefore have a duty to be able to recognize and report suspected abuse to the appropriate authorities, the Board believes that this regulation will not place Pennsylvania at a competitive disadvantage.

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

No. The regulation does not affect any other regulations of the agency or other state agencies. However, there are additional boards that will be promulgating similar regulations in the upcoming months (all health-related boards, and the State Board of Funeral Directors).

(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.)

The Board discusses all of its regulatory proposals at regularly scheduled public meetings of the Board. Representatives of the professional associations representing the regulated community routinely attend those meetings. The Board released an exposure draft of the proposed rulemaking to approximately 43 interested parties and stakeholders who have indicated an interest in the Board's regulatory agenda, including associations representing the three professions, including the Association of State Boards of Social Work, the Pennsylvania Society for Clinical Social Work, the Pennsylvania Association for Marriage and Family Therapy, the Pennsylvania Counseling Association, and the Pennsylvania Chapter of the National Association of Social Work; colleges and universities in the Commonwealth with social work, marriage and family therapy and professional counseling education programs, and other entities and individuals. The only comments received opined that this should be a one-time only requirement, and not be required every 2 years. However, it is a statutory requirement that the Board could not change in this rulemaking. The Board did not receive any public comments when the proposed rulemaking was published.

(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 will be affected by the regulation, including those that are or work for small businesses. At the present time, there are approximately 27,833 licensees, including 9,219 licensed social workers, 7,699 licensed clinical social workers, 921 licensed marriage and family therapists and 9,994 licensed professional counselors. At this time, only 7 licensed bachelor social worker licenses have been issued, but the Board has previously projected that approximately 10,000 applications could be expected. In addition, all applicants for a license issued by the Board would be affected by the mandatory training requirements set forth in the regulation as required under section 6383(b)(3)(i) of the CPSL. The Board currently processes about 3,000 applications a year, but expects that number to increase, with at least an additional 1,000 applicants for bachelor social workers annually after the initial influx.

According to the Pennsylvania Department of Labor and Industry in 2020 (the most recent year for which data is available), social workers, marriage and family therapists and professional counselors provide their services for a variety of private and public sector employers. Excluding those who work for local, state and federal government and in elementary and secondary schools, licensees are employed in the following private sector positions: vocational/rehabilitation services; hospitals; offices of other health care practitioners; home health care services; child and youth services; services for the elderly and persons with disabilities; other individual and family services; residential mental health and substance abuse facilities; and residential intellectual and developmental disability facilities. Some are self-employed.

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. I Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the 2019 NAICS standards to the types of businesses where licensees may work, a small business in the following categories is one that has \$12.0 million or less in average annual receipts: child and youth services (# 624110), services for the elderly and persons with disabilities (# 624120), other individual and family services (# 624190), emergency and other relief services (# 624230) and child day care services (# 624410), assisted living facilities for the elderly (# 623312) and other residential care facilities (# 623990). For those that work in offices of mental health practitioners (# 621330) and offices of all other miscellaneous health care practitioners (# 621399), the small business threshold is \$8.0 million or less in average annual receipts. For those licensees who are employed in outpatient mental health and substance abuse centers (# 621420) residential mental health and substance abuse facilities (# 623220), residential intellectual and developmental disability facilities (#623210), and home health care services (#621610), the small business threshold is \$16.5 million or less in average annual receipts. Finally, licensees employed in general medical and surgical hospitals (# 622110) or in psychiatric and substance abuse hospitals (# 622210) have a small business threshold of \$41.5 million or less in average annual receipts. Based on this variety of employers, the Board believes that most social workers, marriage and family therapists and professional counselors in Pennsylvania are employed in small businesses. The Board does not collect information on the size of the businesses where its licensees are employed. However, for purposes of determining the economic impact on small businesses, the Board must assume that a large number of its licensees either are or work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

Those licensees that are self-employed are likely small businesses that would be impacted by the costs associated with this rulemaking. For those licensees who are employees of small businesses, whether these small businesses will be impacted by the regulations depends on whether the businesses would pay costs associated with obtaining the initial and continuing education relating to child abuse recognition and reporting for employees in these licensure categories. Because these costs are associated with individuals applying for initial licensure or licensure renewal, any business (small or otherwise) could avoid these costs by requiring employees to bear the costs associated with compliance.

(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.

All licensees of the Board will be affected by the regulation. At the present time, there are approximately 27,833 licensees, including 9,219 licensed social workers, 7,699 licensed clinical social workers, 921 licensed marriage and family therapists and 9,994 licensed professional counselors. At this time, only 7 licensed bachelor social worker licenses have been issued, but the Board has previously projected that approximately 10,000 applications could be expected. In addition, all applicants for a license issued by the Board would be affected by the mandatory training requirements set forth in the regulation as required under section 6383(b)(3)(i) of the CPSL. The Board currently processes about 3,000 applications a year, but expects that number to increase, with at least an additional 1,000 applicants for bachelor social workers annually after the initial influx.

(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 anticipate any significant fiscal impact or paperwork requirements relating to the rulemaking. Because licensees are already required to complete mandatory continuing education, and the 2 hours of continuing education in child abuse recognition and reporting are incorporated in the existing requirement, there would be no increased burden. Only applicants for licensure would incur an additional requirement, and because there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal, ranging in cost from \$0 to \$100 per course. Because all approved Act 31 training providers are required to report attendance/participation electronically, there are no additional paperwork requirements imposed on licensee holders. In addition, the implementation of an electronic reporting system for mandatory reporters of suspected child abuse under the CPSL by the Department of Human Services has decreased the paperwork requirements related to the mandatory reporting requirements. The regulation benefits all licensee holders, by providing clarity regarding the reporting obligations; and benefits all Pennsylvania children by the increased protections provided.

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

Because any costs or adverse effects are minimal, the benefits to the regulated community of clarity regarding their reporting obligations and the increased protections to Pennsylvania children far outweigh the costs.

(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 should be no additional cost to the regulated community of existing licensees to comply with the updated regulations to complete the 2 hours of continuing education, as these are not new requirements. In fact, the new electronic reporting system will reduce any paperwork requirements. The only individuals who would incur additional costs are applicants for licensure who will need to complete 3 hours of approved training in child abuse recognition and reporting as a condition of licensure. However, because there are numerous low-cost and free options available, this cost is minimal. Additionally, as more and more schools are submitting their courses for approval, more and more applicants will have completed the required training as part of their professional education and will incur no additional costs. At the present time, the cost for the required training ranges from free to \$100 per course. So, at an average of 4,000 applications per year, the cost to applicants could range from \$0 to \$400,000 per year. For purposes of this rulemaking, the Board is assuming that most applicants would choose a free or low-cost option and estimates an average cost of no more than \$25 each or approximately \$100,000 per year.

(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.

The costs to state government associated with implementation of the regulation include the costs associated with the electronic reporting system by which approved providers submit attendance/participation records to the Bureau and the administrative costs of assuring applicants have complied with the training requirements. The costs associated with the electronic reporting system included an initial system upgrade of \$35,000 incurred in fiscal year 2014-2015. Ongoing annual operating costs of approximately \$90,000 include the costs associated with reviewing application records to determine compliance, sending discrepancy letters, responding to inquiries, working with the IT consultant, managing the child abuse education resource account, approving new courses, etc. These costs are allocated to the 16 boards that are impacted by the training requirements based on licensee population.

(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.

There are no additional legal, accounting or consulting procedures or additional reporting, recordkeeping or other paperwork requirements required of the regulated community. The Bureau/Board has additional recordkeeping responsibilities in receiving, retaining, and retrieving electronic records of completed child abuse training for applicants and licensees.

(22a) Are forms required for implementation of the regulation?

No forms are required for implementation of this regulation.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

N/A

(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 2021-22	FY +1 2022-23	FY +2 2023-24	FY +3 2024-25	FY +4 2025-26	FY +5 2026-27
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
<b>COSTS:</b>						
<b>Regulated Community</b>	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
<b>Local Government</b>						
<b>State Government</b>	\$ 90,000	\$ 90,000	\$ 90,000	\$ 90,000	\$ 90,000	\$ 90,000
<b>Total Costs</b>	\$190,000	\$190,000	\$190,000	\$190,000	\$190,000	\$190,000
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0

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

Program	FY -3 FY 2018-19	FY -2 FY 2019-20	FY -1 FY 2020-21 estimated	Current FY FY 2021-22 budgeted
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors	\$ 1,951,656.76	\$ 1,663,108.62	\$1,787,000	\$ 1,713,000

(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 regulation should have no adverse impact on small business. The new streamlined electronic system for making reports of suspected child abuse has decreased the paperwork requirement; and although licensees who are employees of small businesses now have to complete mandatory training in child abuse recognition and reporting, the law and regulations provide that this requirement is incorporated in the existing continuing education requirements, so there is no increased burden. Also, many approved courses are free or low cost. Additionally, employers can avoid any impact by requiring their employees to pay for their own licensure-related costs, including the costs associated with continuing education.

(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 identified no special groups that needed special provisions. The CPSL applies equally to all mandated reporters.

(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 provisions have been considered. The Board believes that these regulations provide the least burdensome means of complying with the CPSL.

(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 performance 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 there is no anticipated adverse impact on small business, a regulatory flexibility analysis was not conducted. No less stringent compliance or reporting requirements or less stringent schedules or deadlines for compliance for small businesses would be consistent with the goals of the CPSL. The new electronic reporting process established by the Department of Human Services simplifies the reporting process for all businesses. There are no design or operational standards in the regulation. Exempting small businesses or employees of small businesses from any of the requirements contained in the regulation would not be consistent with the intent of the CPSL.

(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.

No data is the basis for this regulation.

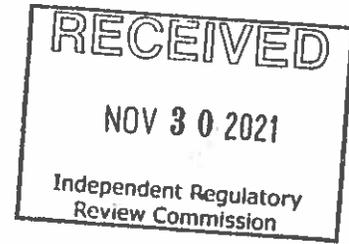
(29) Include a schedule for review of the regulation including:

- A. The length of the public comment period: 30 days after publication of the proposed rulemaking in the *Pennsylvania Bulletin*.
- B. The date or dates on which any public meetings or hearings will be held: The Board considers its regulatory proposals at regularly scheduled public meetings, a schedule of which is included in item (30) below.
- C. The expected date of delivery of the final-form regulation: Fall 2021
- D. The expected effective date of the final-form regulation: Upon publication of the final-form rulemaking in the *Pennsylvania Bulletin* – expected in Fall of 2021
- E. The expected date by which compliance with the final-form regulation will be required: Upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.
- F. The expected date by which required permits, licenses or other approvals must be obtained: N/A

(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 will meet on the following remaining date in 2021: November 30, 2021. The Board will meet on the following dates in 2022: January 25, March 8, April 26, June 14, July 18, September 6, October 11 and November 29, 2022. More information can be found on the Department's website at [www.dos.pa.gov](http://www.dos.pa.gov).

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
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FINAL-FORM RULEMAKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY  
THERAPISTS AND PROFESSIONAL COUNSELORS

TITLE 49 PA CODE CHAPTERS 47, 48 and 49

§§ 47.12, 47.32, 47.51—47.59, 48.12, 48.32, 48.51—48.59,  
49.12, 49.32 and 49.51—49.59

CHILD ABUSE REPORTING REQUIREMENTS

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) hereby amends §§ 47.12, 47.32, 47.51—47.57, 48.12, 48.32, 48.51—48.57, 49.12, 49.32, and 49.51—49.57 and adds §§ 47.58, 47.59, 48.58, 48.59, 49.58 and 49.59 to read as set forth in Annex A.

*Effective date*

The regulations will be effective upon final-form publication in the *Pennsylvania Bulletin*.

*Statutory authority*

Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)) sets forth the Board’s general rulemaking authority. Under sections 6301—6388 of 23 Pa.C.S. (relating to Child Protective Services Law) (CPSL), specifically section 6383(b)(2) of the CPSL (relating to education and training), the Board is required to promulgate regulations to implement the mandatory reporting requirements for licensees of the Board.

*Background and purpose*

Since 2014, the General Assembly has made numerous amendments to the CPSL, including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) (Act 31) on all health-related Boards to require training in child abuse recognition and reporting for licensees who are considered “mandated reporters” under the CPSL. Section 2 of Act 31 provided that these training requirements would apply to all persons applying for a license or applying for renewal of a license on or after January 1, 2015. The Board implemented the training requirements as mandated at the beginning of 2015 and subsequently proposed this rulemaking to update the Board’s existing regulations on the subject of child abuse reporting to be consistent with the CPSL, as amended.

The proposed rulemaking was published at 51 Pa.B. 14 (January 2, 2021) for 30 days of public comment, but no public comments were received. The Independent Regulatory Review Commission (IRRC) submitted comments on March 3, 2021. The House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not submit comments. The following represents a summary of IRRC’s comments and the Board’s response, and a description of the amendments made to this final-form rulemaking.

*Summary of IRRC’s comments and the Board’s response*

Initially, IRRC commented that subsection (a) of §§ 47.58, 48.58 and 49.58 (relating to child abuse recognition and reporting – mandatory training requirement) requires an individual applying for licensure to complete at least 3 hours of training in child abuse recognition and reporting, but does not address documentation and reporting of completion of that training. IRRC asked the Board to revise this subsection to include implementation procedures for submitting proof of training. In response, the Board has revised subsection (a) to clarify that the 3 hours of training must be approved by the Department of Human Services and the Bureau of Professional

and Occupational Affairs (Bureau), as set forth in §§ 47.59, 48.59 and 49.59 (relating to child abuse recognition and reporting course approval process) to assure that the course provider can electronically report the completion of the training to the Bureau. The completion of the training is then automatically recorded on the applicant's profile in the Pennsylvania Licensing System (PALS). An applicant would need to certify on the application that the applicant has either completed the training or has been granted an exemption by the Board. The Board has also amended this subsection to clarify that the Board will not issue a license unless the PALS system includes the report from an approved course provider or the Board has granted an exemption.

IRRC also commented that the standards for documentation and evaluation of exemption requests under subsection (c)(3) is vague. This provision implements section 6383(b)(6) of the CPSL (23 Pa.C.S. § 6383(b)(6)) which provides that a licensing board may exempt an applicant or licensee if that individual submits documentation acceptable to the licensing board that demonstrates that the individual should not be subject to the training or continuing education requirement. IRRC asks the Board to explain the standards for sufficient documentation and the evaluation process for reviewing a request for an exemption. It is difficult to set standards for documentation that would apply to all situations. For example, the Board has granted exemptions to licensees who work for the Department of Human Services, Office of Children, Youth and Families (OCYF), which is the office that is responsible for investigating reports of suspected child abuse. Acceptable documentation in this circumstance might be a letter from the individual's supervisor verifying employment and a job description that shows the licensee is responsible for investigating reports of suspected child abuse. Or it may include documentation that the employee is an approved trainer in the area of child abuse recognition and reporting. Another example might be a licensee who volunteers as a Court-appointed Special Advocate (CASA) for children who are victims of abuse or neglect. These individuals are required to complete at least 30 hours of pre-service training and 12 hours of annual in-service training (See 37 Pa. Code § 200.221 (relating to training)). Generally, the Board evaluates these requests to determine whether 3 hours of training in the area of child abuse recognition and reporting would be duplicative of other training the individual has completed or is unnecessary under the circumstances. In addition, the Board would not find it sufficient for an applicant or licensee to simply state that they do not include children in their practice due to the expanded scope of the duty to report set forth in section 6311(b) of the CPSL, which no longer requires the mandated reporter to come into contact with the child in the course of their employment, occupation or practice of a profession.

In response to IRRC's comment, the Board has amended subsection (c)(3) to clarify these standards. The Board has also added a new subsection (d) to clarify that exemptions granted under subsection (c) are only applicable for the biennial renewal period for which the exemption is requested. The Board is also explaining the process for notifying applicants/licensees of the grant or denial of an exemption request in subsection (d). If an exemption is granted, the license will be issued or renewed. If an exemption is denied, the applicant or licensee will receive a discrepancy notice by email notifying them of the need to complete an approved course, or to submit additional documentation in support of their request for an exemption.

IRRC also pointed out that, unlike §§ 47.58(b) and 49.58(b), the comparable provision in § 48.58(b) did not include the explanatory language clarifying that the 2 hours of continuing

education in child abuse recognition and reporting “are a portion of the total continuing education required for biennial renewal.” In response, the Board has added this language to § 48.58(b).

Next, IRRC pointed out that the definition of “mandated reporter” in § 49.51 (relating to definitions relating to child abuse reporting requirements) cross references § 49.52 (relating to suspected child abuse—mandated reporting requirements.) However, the definition of “mandated reporter” in §§ 47.51 and 48.51 cross references 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse). For clarity and consistency, IRRC asked the Board to revise the definition in § 49.51 to cross-reference the statute. The Board has made the requested revision in this final-form rulemaking.

Finally, IRRC noted that under 23 Pa.C.S. § 6311(a)(12), an individual supervised or managed by a Board licensee who has direct contact with children in the course of employment is also a mandated reporter. For that reason, the Board included a reminder to its licensees in the preamble to the proposed rulemaking that individuals they supervise or manage should be aware of the reporting requirements. IRRC asked the Board to explain if it will use additional methods to communicate this message to its licensees. IRRC also asked the Board to consider whether it would be appropriate to require its licensees to advise employees of their mandated reporter status.

The Board considered this comment, and although the Board does not find it necessary to impose such a duty on its licensees, the Board has other means at its disposal, such as the Board’s website and newsletters, to assure that licensees are aware that individuals that they supervise or manage who come into contact with children in the course of their employment are also mandated reporters and should be aware of the reporting requirements under the CPSL.

#### *Description of the amendments to the final-form rulemaking*

In addition to revisions that were made in response to IRRC’s comments, the Board took this opportunity to make additional clarity edits and to correct typographical errors. The following is a description of all amendments made to the final-form rulemaking.

#### §§ 47.51, 48.51 and 49.51 – Definitions relating to child abuse reporting requirements.

The Board amended the definition of “perpetrator” to use the defined term “person responsible for the child’s welfare” at subparagraphs (i)(D) and (ii)(D) to aid clarity. In addition, the Board corrected typographical errors in the definition of “perpetrator” in §§ 47.51 and 49.51 at subparagraph (i)(F) to refer to “birth or adoption to the child,” and in § 49.51 at subparagraph (ii)(B) to correct the spelling of the word “spouse.” The Board also corrected a typographical error in the definition of “sexual abuse or exploitation” in § 48.51 at subparagraph (i)(D) to refer to “actual or simulated sexual activity.” Finally, the Board revised the cross-reference in the definition of “mandated reporter” in § 49.51 to cross reference 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to be consistent with §§ 47.51 and 48.51.

#### §§ 47.52, 48.52 and 49.52 – Suspected child abuse—mandated reporting requirements.

To aid clarity and to be consistent with the CPSL, the Board added two additional paragraphs to subsection (a) to include language contained in 23 Pa.C.S. § 6311(b)(2) and (3), which clarify that nothing in this subsection shall require a child to come before the mandated reporter to make a report of suspected child abuse; and that nothing in this subsection shall require the mandated reporter to identify the person responsible for the suspected child abuse to make a report.

§§ 47.53, 48.53 and 49.53 – Photographs of child subject to report.

To aid clarity and to be consistent with the CPSL, the Board amended these sections to include language in section 6314 of the CPSL (23 Pa.C.S. § 6314) that requires that summaries or reports of the photographs shall be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6490(a)(9) or (10) (relating to release of information in confidential reports).

§§ 47.58, 48.58 and 49.58 – Child abuse recognition and reporting—mandatory training requirement.

In response to IRRC’s comment, the Board amended subsection (a) to clarify the process for applicants and approved course providers to document completion of the required 3 hours of training as condition of licensure and to notify licensees that the Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting completion of the training by the applicant or the applicant has obtained an exemption under subsection (c).

The Board also amended subsection (b) to clarify that the continuing education in child abuse recognition and reporting must be completed within the applicable biennial renewal period to be credited for licensure renewal. The Board also took this opportunity to clarify that if a licensee holds more than one license issued by the Board, or holds a license issued by another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses. In addition, in response to IRRC’s comment, the board revised § 48.58(b) to be consistent with §§ 47.58(b) and 49.58(b), by clarifying that the 2 hours of continuing education in child abuse recognition and reporting “are a portion of the total continuing education required for biennial renewal.”

With regard to subsection (c), pertaining to exemptions, the Board clarified that for purposes of licensure renewal, comparable training completed under paragraph (1) or (2) must have been completed during the relevant biennial renewal period. The Board also amended paragraph (3) in response to IRRC’s comment to set forth the standards for documentation and evaluation of exemption requests where the individual demonstrates that the training or continuing education requirement is duplicative or unnecessary under the circumstances. The Board also clarified that it is not enough that the applicant or licensee states that they do not include children in their practice.

Finally, the Board added a new subsection (d) to clarify that exemptions granted under subsection (c) are applicable only for the biennial renewal period for which the exemption is requested. This subsection also clarifies the process for the grant or denial of an exemption.

#### *Fiscal Impact and Paperwork Requirements*

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these amendments. Because licensees are already required to complete mandatory continuing education, and these 2 hours in child abuse recognition and reporting are incorporated in the existing requirement, there would not be an increased burden. Only applicants for licensure would incur an additional requirement and, as there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal. Because all approved Act 31 training providers are required to report attendance/participation electronically, there are no additional paperwork requirements imposed on the regulated community. In addition, the implementation of an electronic reporting system for mandated reporters of child abuse under the CPSL by the Department of Human Services has decreased the paperwork requirements related to the mandatory reporting requirements.

#### *Regulatory Review*

Under section 5(a) and (f) of the Regulatory Review Act (71 P.S. § 745.5(a) and (f)), on November 24, 2020, the Board submitted a copy of the notice of proposed rulemaking, published at 51 Pa.B. 14, to IRRC and the Legislative Reference Bureau. The Board subsequently submitted the notice of proposed rulemaking to the Chairpersons of the HPLC and the SCP/PLC for review and comment on February 19, 2021, as required under section 5(f) of the Regulatory Review Act.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received on the regulation, as well as other documents when requested. In preparing this final-form rulemaking, the Board has considered all comments received from IRRC. No public comments were received. The Board also received no comments from the HPLC or the SCP/PLC.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on November 30, 2021, the Board delivered this final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(j.2) of the Regulation Review Act, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC on \_\_\_\_\_, 2021. Under section 5.1(e) of the Regulatory Review Act, IRRC met on \_\_\_\_\_, 2021, and approved the final-form rulemaking.

#### *Additional Information*

Additional information may be obtained by writing to Sandra Matter, Board Administrator, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P.O. Box 2649, Harrisburg, PA 17105-2649, [ST-SOCIALWORK@pa.gov](mailto:ST-SOCIALWORK@pa.gov).

### *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) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).
- (2) A public comment period was provided as required by law, but no comments were received.
- (3) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 51 Pa.B. 14.
- (4) This final-form rulemaking is necessary and appropriate for the administration of the Child Protective Services Law (23 Pa.C.S. §§ 6301—6388).

### *Order*

The Board, therefore, orders that:

- (a) The regulations of the Board at 49 Pa. Code Chapters 47, 48 and 49 are amended by amending §§47.12, 47.32, 47.51—47.57, 48.12, 48.32, 48.51—48.57, 49.12, 49.32, and 49.51—49.57 and adding §§ 47.58, 47.59, 48.58, 48.59, 49.58 and 49.59 to read as set forth in Annex A.
- (b) The Board shall submit the final-form regulation to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall submit the final-form regulation to IRRC, the HPLC and the SCP/PLC as required by law.
- (d) The Board shall certify the final-form regulation and deposit it with the Legislative Reference Bureau as required by law.
- (e) This final-form regulation shall take effect upon publication in the *Pennsylvania Bulletin*.

Joy E. Corby, PhD, LMFT  
Chairperson

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE**

**AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS**

**LICENSURE**

**§ 47.12. Qualifications for licensure.**

General qualifications and requirements for applicants for licensure are as follows:

\* \* \* \* \*

(5) The applicant has submitted two Certificates of Recommendation on forms furnished by the Board.

(6) The applicant has completed at least 3 hours of training in child abuse recognition and reporting in accordance with § 47.58(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(7) The applicant has submitted an affirmation signed by the applicant verifying the information on the application.

**CONTINUING EDUCATION**

**§ 47.32. Requirement for biennial renewal.**

The Board requires, as a condition of biennial renewal of a bachelor social worker's license, a social worker's license or a clinical social worker's license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs in social work offered by approved providers. Excess clock hours may not be carried over to the next

biennium. At least 3 of the required 30 clock hours must be related to ethical issues and at least 2 clock hours must be in child abuse recognition and reporting in accordance with § 47.58(b) (relating to child abuse recognition and reporting—mandatory training requirement).

## CHILD ABUSE REPORTING REQUIREMENTS

### § 47.51. Definitions relating to child abuse reporting requirements.

The following words and terms, when used in this section and [~~§§ 47.52—47.57~~] §§ 47.52—47.59 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

*Bodily injury*—Impairment of physical condition or substantial pain.

*Bureau*—Bureau of Professional and Occupational Affairs within the Department of State of the Commonwealth.

*Child*—An individual under 18 years of age.

*Child abuse*—[A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.]

Intentionally, knowingly or recklessly doing any of the following:

- (i) Causing bodily injury to a child through any recent act or failure to act.
- (ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- (iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- (iv) Causing sexual abuse or exploitation of a child through any act or failure to act.
- (v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- (vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- (vii) Causing serious physical neglect of a child.
- (viii) Engaging in any of the following recent acts:
  - (A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
  - (B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.
  - (C) Forcefully shaking a child under 1 year of age.
  - (D) Forcefully slapping or otherwise striking a child under 1 year of age.
  - (E) Interfering with the breathing of a child.

(F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), when the victim of the sexual offense was under 18 years of age when the crime was committed.

(II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(ix) Causing the death of the child through any act or failure to act.

(x) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

*ChildLine*—An organizational unit of the Department of [Public Welfare] Human Services, which operates a 24-hour a day Statewide toll-free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

[Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.]

Mandated reporter—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes all licensed bachelor social workers, licensed social workers and licensed clinical social workers.

Parent—A biological parent, adoptive parent or legal guardian.

Perpetrator—[A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child’s parent] A person who has committed child abuse as defined in this section.

(i) This term includes only the following:

(A) A parent of the child.

(B) A spouse or former spouse of the child’s parent.

(C) A paramour or former paramour of the child’s parent.

(D) A ~~person~~ AN INDIVIDUAL 14 years of age or older ~~and~~ WHO IS A PERSON responsible for the child’s welfare or ~~having~~ WHO HAS direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption ~~of~~ TO the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person RESPONSIBLE FOR THE CHILD'S WELFARE WHO IS 18 years of age or older ~~and responsible for the child's welfare.~~

(E) A person 18 years of age or older who resides in the same home as the child.

*Person responsible for the child's welfare*—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. [The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school].

*Program, activity or service*—Any of the following in which children participate and which is sponsored by a school or a public or private organization:

(i) A youth camp or program.

(ii) A recreational camp or program.

(iii) A sports or athletic program.

(iv) A community or social outreach program.

(v) An enrichment or educational program.

(vi) A troop, club or similar organization.

*Recent [acts or omissions—Acts or omissions]* act or failure to act—An act or failure to act committed within 2 years of the date of the report to the Department of [Public Welfare] Human Services or county agency.

*Serious mental injury*—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child’s life or safety is threatened.

(ii) Seriously interferes with a child’s ability to accomplish age-appropriate developmental and social tasks.

*[Serious physical injury—An injury that causes a child severe pain or significantly impairs a child’s physical functioning, either temporarily or permanently.]*

*Serious physical neglect—Any of the following when committed by a perpetrator that endangers a child’s life or health, threatens a child’s well-being, causes bodily injury or impairs a child’s health, development or functioning:*

(i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child’s developmental age and abilities.

(ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

*Sexual abuse or exploitation*—[The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including

photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.] Any of the following:

(i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:

(A) Looking at sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual

(C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

(ii) Any of the following offenses committed against a child:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

**§ 47.52. Suspected child abuse—mandated reporting requirements.**

(a) *General rule.*

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensed bachelor social workers [who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare and to the appropriate county agency when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.], licensed social workers and licensed clinical social workers are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

~~(1)~~ (i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

~~(2)~~ (ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

~~(3)~~ (iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

~~(4)~~ (iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) NOTHING IN THIS SUBSECTION SHALL REQUIRE A CHILD TO COME BEFORE THE MANDATED REPORTER TO MAKE A REPORT OF SUSPECTED CHILD ABUSE.

(3) NOTHING IN THIS SUBSECTION SHALL REQUIRE THE MANDATED REPORTER TO IDENTIFY THE PERSON RESPONSIBLE FOR THE CHILD ABUSE TO MAKE A REPORT OF SUSPECTED CHILD ABUSE.

(b) *Staff members of public or private agencies, institutions and facilities.* [Licensed social workers who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the licensed social worker, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d)] Whenever a licensed bachelor social worker, licensed social worker or licensed clinical social worker (licensee) is required to make a report under subsection (a) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that licensee shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) *Reporting procedure.* [Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) *Written reports.* Written reports shall be made to the appropriate county agency within 48 hours after the oral report is made by telephone and must contain, at a minimum, the information required by the Department of Public Welfare in 55 Pa. Code § 3490.18 (relating to filing of a written report by a required reporter).]

(1) A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(i) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this subparagraph may be submitted electronically.

(ii) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service’s Child Welfare Information Solution self-service portal at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis). A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(2) A written or electronic report of suspected child abuse must include the following information, if known:

- (i) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.
- (ii) Where the suspected child abuse occurred.
- (iii) The age and sex of each subject of the report.
- (iv) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.
- (v) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.
- (vi) Family composition.
- (vii) The source of the report.
- (viii) The name, telephone number and e-mail address of the person making the report.
- (ix) The actions taken by the person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.
- (x) Other information required by Federal law or regulation.
- (xi) Other information that the Department of Human Services may require by regulation.

**§ 47.53. Photographs[, medical tests and X-rays] of child subject to report.**

A licensed bachelor social worker, licensed social worker or licensed clinical social worker may take or cause to be taken photographs of the child who is subject to a report[ and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child]. [Medical summaries] Summaries or reports of the photographs[, X-rays and relevant medical tests] taken shall be sent to the county children and youth social service agency at the time the written

report is sent, or within 48 hours after an electronic report is made under § 47.52(c)(1)(ii) (relating to suspected child abuse—mandated reporting requirements), or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates[ and X-rays] and may obtain them or duplicates of them upon request. SUMMARIES OR REPORTS OF THE PHOTOGRAPHS SHALL BE MADE AVAILABLE TO LAW ENFORCEMENT OFFICIALS IN THE COURSE OF INVESTIGATING CASES UNDER 23 PA.C.S. § 6490(a)(9) OR (10) (RELATING TO RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS).

**§ 47.54. Suspected death as a result of child abuse—mandated reporting requirement.**

A licensed bachelor social worker, licensed social worker or licensed clinical social worker who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

**§ 47.55. Immunity from liability.**

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a licensed bachelor social worker, licensed social worker or licensed clinical social worker who participates in good faith in the making of a report of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse or general protective services or [the taking of photographs] engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity from civil and criminal liability that might otherwise result by reason of the [licensed social worker's] actions of the licensed

bachelor social worker, licensed social worker or licensed clinical social worker. For the purpose of any civil or criminal proceeding, the good faith of the licensed bachelor social worker, licensed social worker or licensed clinical social worker shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a [licensed social worker's] licensee's actions [in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs] under §§ 47.52—47.54 (relating to suspected child abuse—mandated reporting requirements; photographs of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

**§ 47.56. Confidentiality—waived.**

To protect children from abuse, the reporting requirements of §§ 47.52—47.54 (relating to suspected child abuse—mandated reporting requirements; photographs[, medical tests and X-rays] of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient/client does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse. Additionally, under 23 Pa.C.S. § 6313(e) (relating to reporting procedure), notwithstanding any other provision of law to the contrary, a mandated reporter who makes a report of suspected child abuse does not violate the Mental Health Procedures Act (50 P.S. §§ 7101—7503) by releasing information necessary to complete the report.

**§ 47.57. Noncompliance.**

(a) *Disciplinary action.* A licensed bachelor social worker, licensed social worker or licensed clinical social worker who willfully fails to comply with the reporting requirements in §§ 47.52—47.54 (relating to suspected child abuse—mandated reporting requirements; photographs[, medical tests and X-rays] of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 11 of the act (63 P. S. § 1911).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties [for failure to report]), a licensed bachelor social worker, licensed social worker or licensed clinical social worker who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities and who willfully fails to do so commits [a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation] a criminal offense, as follows:

(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if all of the following apply:

(i) The mandated reporter willfully fails to report.

(ii) The child abuse constitutes a felony of the first degree or higher.

(iii) The mandated reporter has direct knowledge of the nature of the abuse.

(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's

employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.

(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under 23 Pa.C.S. § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

**§ 47.58. Child abuse recognition and reporting—mandatory training requirement.**

(a) Except as provided in subsection (c), individuals applying to the Board for a license shall complete, as a condition of licensure, at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services AND THE BUREAU, AS SET FORTH IN § 47.59 (RELATING TO CHILD ABUSE RECOGNITION AND REPORTING COURSE APPROVAL PROCESS). THE APPLICANT SHALL CERTIFY ON THE APPLICATION THAT THE APPLICANT HAS EITHER COMPLETED THE REQUIRED TRAINING OR HAS BEEN GRANTED AN EXEMPTION UNDER SUBSECTION (c). THE BOARD WILL NOT ISSUE A LICENSE UNLESS THE BUREAU HAS RECEIVED AN ELECTRONIC REPORT FROM AN APPROVED COURSE PROVIDER DOCUMENTING THE ATTENDANCE/ PARTICIPATION BY THE APPLICANT OR THE APPLICANT HAS OBTAINED AN EXEMPTION UNDER SUBSECTION (c).

(b) Except as provided in subsection (c), licensees seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, at least 2 hours of approved continuing education in child abuse recognition and reporting, as a portion of the total continuing education required for biennial renewal. For credit to be granted, the continuing education course

or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 47.59 (relating to child abuse recognition and reporting course approval process). The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course WITHIN THE APPLICABLE BIENNIAL RENEWAL PERIOD or the licensee has obtained an exemption under subsection (c). IF A LICENSEE HOLDS MORE THAN ONE LICENSE ISSUED BY THE BOARD, OR HOLDS A LICENSE ISSUED BY ANOTHER LICENSING BOARD WITHIN THE BUREAU THAT REQUIRES MANDATORY TRAINING IN CHILD ABUSE RECOGNITION AND REPORTING, CREDIT FOR COMPLETION OF AN APPROVED COURSE WILL BE APPLIED TO BOTH LICENSES.

(c) An applicant or licensee may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant or licensee meets one of the following:

- (1) The applicant or licensee submits documentation demonstrating that:
  - (i) The applicant or licensee has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).
  - (ii) The training was approved by the Department of Education in consultation with the Department of Human Services.
  - (iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(iv) FOR PURPOSES OF LICENSURE RENEWAL, THE TRAINING MUST HAVE BEEN COMPLETED DURING THE RELEVANT BIENNIAL RENEWAL PERIOD.

(2) The applicant or licensee submits documentation demonstrating that:

(i) The applicant or licensee has already completed child abuse recognition training required by 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(iv) FOR PURPOSES OF LICENSURE RENEWAL, THE TRAINING MUST HAVE BEEN COMPLETED DURING THE RELEVANT BIENNIAL RENEWAL PERIOD.

(3) The applicant or licensee submits documentation ACCEPTABLE TO THE BOARD demonstrating that WHY the applicant or licensee should not be subject to the training or continuing education requirement. THE BOARD WILL NOT GRANT AN EXEMPTION BASED SOLELY UPON PROOF THAT CHILDREN ARE NOT PART OF THE APPLICANT'S OR LICENSEE'S PRACTICE. Each request for an exemption under this paragraph will be considered on a case-by-case basis. THE BOARD MAY GRANT THE EXEMPTION IF IT FINDS THAT COMPLETION OF THE TRAINING OR CONTINUING EDUCATION REQUIREMENT IS DUPLICATIVE OR UNNECESSARY UNDER THE CIRCUMSTANCES.

(d) EXEMPTIONS GRANTED UNDER SUBSECTION (c) ARE APPLICABLE ONLY FOR THE BIENNIAL RENEWAL PERIOD FOR WHICH THE EXEMPTION IS

REQUESTED. IF AN EXEMPTION IS GRANTED, THE BOARD WILL ISSUE OR RENEW THE LICENSE, AS APPLICABLE. IF AN EXEMPTION IS DENIED, THE BOARD WILL EMAIL THE APPLICANT OR LICENSEE A DISCREPANCY NOTICE NOTIFYING THEM OF THE NEED TO EITHER COMPLETE AN APPROVED COURSE OR, IF WARRANTED, TO SUBMIT ADDITIONAL DOCUMENTATION IN SUPPORT OF THEIR REQUEST FOR AN EXEMPTION.

**§ 47.59. Child abuse recognition and reporting course approval process.**

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) (relating to education and training) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services (DOH), Office of Children, Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120 or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649 or electronically at RA-stcpsl\_course\_app@pa.gov.

(b) Submissions must include the following:

(1) Contact information (mailing address, email address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

- (4) Timed agenda and estimated hours of training.
- (5) Learning objectives.
- (6) Intended audience.
- (7) All course related materials, including as applicable:
  - (i) Handouts.
  - (ii) Narrated script or talking points.
  - (iii) Interactive activities or exercises.
  - (iv) Videos and audio/visual content.
  - (v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.
  - (vi) For online courses, a transcript of audio training.
- (8) Citation of sources, including written permission to use copyrighted material, if applicable.
- (9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.
- (10) Printed materials used to market the training.
- (11) Evaluation used to assess participants' satisfaction with the training.
- (12) Sample certificate of attendance/participation, which must include:
  - (i) Name of participant.
  - (ii) Title of training.
  - (iii) Date of training.
  - (iv) Length of training (2 or 3 hours).

(v) Name and signature of the authorized representative of the provider. The signature may be an electronic signature.

(vi) Statement affirming the participant attended the entire course.

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau’s website and the Board’s website.

\* \* \* \* \*

**CHAPTER 48. STATE BOARD OF SOCIAL WORKERS, MARRIAGE  
AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF  
MARRIAGE AND FAMILY THERAPISTS  
LICENSURE**

**§ 48.12. General qualifications for licensure.**

General qualifications and requirements for applicants for licensure are as follows:

\* \* \* \* \*

(5) The applicant has submitted two certificates of recommendation on forms furnished by the Board.

(6) The applicant has completed at least 3 hours of training in child abuse recognition and reporting in accordance with § 48.58(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(7) The applicant has submitted an affirmation signed by the applicant verifying the information on the application.

**CONTINUING EDUCATION**

**§ 48.32. Requirement for biennial renewal.**

[For 2009 renewals and thereafter, the Board will require] The Board requires, as a condition of biennial renewal of a marriage and family therapist’s license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs offered by approved providers [which shall include at least 3 clock hours in ethical issues]. Up to 20 clock hours may be obtained by home study. Excess clock hours may not be carried over to the next biennium. At least 3 of the required 30 clock hours must be related to ethical issues and at least 2 of the required 30 clock hours must be completed in child abuse recognition and reporting in accordance with § 48.58(b) (relating to child abuse recognition and reporting—mandatory training requirement).

#### **CHILD ABUSE REPORTING REQUIREMENTS**

##### **§ 48.51. Definitions relating to child abuse reporting requirements.**

The following words and terms, when used in this section and [§§ 48.52—48.57] §§ 48.52—48.59 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

*Bodily injury*—Impairment of physical condition or substantial pain.

*Bureau*—Bureau of Professional and Occupational Affairs within the Department of State of the Commonwealth.

*Child*—An individual under 18 years of age.

*Child abuse*—[The term includes any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.]

Intentionally, knowingly or recklessly doing any of the following:

- (i) Causing bodily injury to a child through any recent act or failure to act.
- (ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- (iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- (iv) Causing sexual abuse or exploitation of a child through any act or failure to act.
- (v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- (vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- (vii) Causing serious physical neglect of a child.
- (viii) Engaging in any of the following recent acts:
  - (A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

- (B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.
- (C) Forcefully shaking a child under 1 year of age.
- (D) Forcefully slapping or otherwise striking a child under 1 year of age.
- (E) Interfering with the breathing of a child.
- (F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
- (G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
  - (I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), when the victim of the sexual offense was under 18 years of age when the crime was committed.
  - (II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
  - (III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
  - (IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b)(relating to registration).
- (ix) Causing the death of the child through any act or failure to act.

(x) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

*ChildLine*—An organizational unit of the Department of [Public Welfare] Human Services, which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

*[Individual residing in the same home as the child*—An individual who is 14 years of age or older and who resides in the same home as the child.]

*Mandated reporter*—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes all licensed marriage and family therapists.

*Parent*—A biological parent, adoptive parent or legal guardian.

*Perpetrator*—[A person who has committed child abuse [and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child’s parent] A person who has committed child abuse as defined in this section.

(i) This term includes only the following:

(A) A parent of the child

(B) A spouse or former spouse of the child’s parent.

(C) A paramour or former paramour of the child’s parent.

(D) ~~A person~~ AN INDIVIDUAL 14 years of age or older ~~and~~ WHO IS A PERSON responsible for the child’s welfare or having WHO HAS direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person RESPONSIBLE FOR THE CHILD'S WELFARE WHO IS 18 years of age or older ~~and responsible for the child's welfare.~~

(E) A person 18 years of age or older who resides in the same home as the child.

*Person responsible for the child's welfare—*

[(i) A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

[(ii) The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.]

Program, activity or service—Any of the following in which children participate and which is sponsored by a school or public or private organization:

- (i) A youth camp or program.
- (ii) A recreational camp or program.
- (iii) A sports or athletic program.
- (iv) A community or social outreach program.
- (v) An enrichment or educational program.
- (vi) A troop, club or similar organization.

Recent [acts or omissions—Acts or omissions] act or failure to act—An act or failure to act committed within 2 years of the date of the report to the Department of [Public Welfare] Human Services or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

- (i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child’s life or safety is threatened.
- (ii) Seriously interferes with a child’s ability to accomplish age-appropriate developmental and social tasks.

[Serious physical injury—An injury that causes a child severe pain or significantly impairs a child’s physical functioning, either temporarily or permanently.]

Serious physical neglect—Any of the following when committed by a perpetrator that endangers a child’s life or health, threatens a child’s well-being, causes bodily injury or impairs a child’s health, development or functioning:

(i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child’s developmental age and abilities.

(ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

*Sexual abuse or exploitation*—[The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.] Any of the following:

(i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:

(A) Looking at sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual

(C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(D) Actual ~~of~~ OR simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

(ii) Any of the following offenses committed against a child:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

**§ 48.52. Suspected child abuse—mandated reporting requirements.**

**(a) General rule.**

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensed marriage and family therapists [who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare and to the appropriate county agency when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.] are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

~~(1)~~ (i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

~~(2)~~ (ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other

entity that is directly responsible for the care, supervision, guidance or training of the child.

~~(3)~~ (iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

~~(4)~~ (iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) NOTHING IN THIS SUBSECTION SHALL REQUIRE A CHILD TO COME BEFORE THE MANDATED REPORTER TO MAKE A REPORT OF SUSPECTED CHILD ABUSE.

(3) NOTHING IN THIS SUBSECTION SHALL REQUIRE THE MANDATED REPORTER TO IDENTIFY THE PERSON RESPONSIBLE FOR THE CHILD ABUSE TO MAKE A REPORT OF SUSPECTED CHILD ABUSE.

(b) *Staff members of public or private agencies, institutions and facilities.* [Licensed marriage and family therapists who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the licensed social worker, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d)] Whenever a licensed marriage and family therapist is required to make a report under subsection (a) in the capacity as a member of the staff of a

medical or other public or private institution, school, facility or agency, that licensed marriage and family therapist shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) *Reporting procedure.* [Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) *Written reports.* Written reports shall be made to the appropriate county agency within 48 hours after the oral report is made by telephone and must contain, at a minimum, the information required by the Department of Public Welfare in 55 Pa. Code § 3490.18 (relating to filing of a written report by a required reporter).]

(1) A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(i) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this subparagraph may be submitted electronically.

(ii) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service’s Child Welfare Information Solution self-service portal at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis). A confirmation by the Department of Human

Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(2) A written or electronic report of suspected child abuse must include the following information, if known:

(i) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.

(ii) Where the suspected child abuse occurred.

(iii) The age and sex of each subject of the report.

(iv) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.

(v) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.

(vi) Family composition.

(vii) The source of the report.

(viii) The name, telephone number and e-mail address of the person making the report.

(ix) The actions taken by the person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.

(x) Other information required by Federal law or regulation.

(xi) Other information that the Department of Human Services may require by regulation.

**§ 48.53. Photographs[, medical tests and X-rays] of child subject to report.**

A licensed marriage and family therapist may take or cause to be taken photographs of the child who is subject to a report[ and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child]. [Medical summaries] Summaries or reports of the photographs[, X-rays and relevant medical tests] taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 48.52(c)(1)(ii) (relating to suspected child abuse—mandated reporting requirements). or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates [and X-rays] and may obtain them or duplicates of them upon request. SUMMARIES OR REPORTS OF THE PHOTOGRAPHS SHALL BE MADE AVAILABLE TO LAW ENFORCEMENT OFFICIALS IN THE COURSE OF INVESTIGATING CASES UNDER 23 PA.C.S. § 6490(a)(9) OR (10) (RELATING TO RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS).

**§ 48.54. Suspected death as a result of child abuse—mandated reporting requirement.**

A licensed marriage and family therapist who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

**§ 48.55. Immunity from liability.**

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a licensed marriage and family therapist who participates in good faith in the making of a report of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding

arising out of an instance of suspected child abuse or general protective services or [the taking of photographs] engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity from civil and criminal liability that might otherwise result by reason of the licensed marriage and family therapist's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensed marriage and family therapist shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensed marriage and family therapist's actions [in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs] under §§ 48.52—48.54 (relating to suspected child abuse—mandated reporting requirements; photographs of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

**§ 48.56. Confidentiality—waived.**

To protect children from abuse, the reporting requirements of §§ 48.52—48.54 (relating to suspected child abuse—mandated reporting requirements; photographs[, medical tests and X-rays] of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient/client does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse. Additionally, under 23 Pa.C.S. § 6313(e) (relating to reporting procedure), notwithstanding any other provision of law to the contrary, a mandated reporter who makes a report of suspected child abuse does not violate the

Mental Health Procedures Act (50 P.S. §§ 7101—7503) by releasing information necessary to complete the report.

**§ 48.57. Noncompliance.**

(a) *Disciplinary action.* A licensed marriage and family therapist who willfully fails to comply with the reporting requirements in §§ 48.52—48.54 (relating to suspected child abuse—mandated reporting requirements; photographs[, medical tests and X-rays] of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 11 of the act (63 P. S. § 1911).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties[ for failure to report]), a licensed marriage and family therapist who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities and who willfully fails to do so commits [a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.] a criminal offense, as follows:

(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if all of the following apply:

(i) The mandated reporter willfully fails to report.

(ii) The child abuse constitutes a felony of the first degree or higher.

(iii) The mandated reporter has direct knowledge of the nature of the abuse.

(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's

employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.

(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

**§ 48.58. Child abuse recognition and reporting—mandatory training requirement.**

(a) Except as provided in subsection (c), individuals applying to the Board for a license as a marriage and family therapist shall complete, as a condition of licensure, at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services AND THE BUREAU, AS SET FORTH IN § 48.59 (RELATING TO CHILD ABUSE RECOGNITION AND REPORTING COURSE APPROVAL PROCESS). THE APPLICANT SHALL CERTIFY ON THE APPLICATION THAT THE APPLICANT HAS EITHER COMPLETED THE REQUIRED TRAINING OR HAS BEEN GRANTED AN EXEMPTION UNDER SUBSECTION (c). THE BOARD WILL NOT ISSUE A LICENSE UNLESS THE BUREAU HAS RECEIVED AN ELECTRONIC REPORT FROM AN APPROVED COURSE PROVIDER DOCUMENTING THE ATTENDANCE/PARTICIPATION BY THE APPLICANT OR THE APPLICANT HAS OBTAINED AN EXEMPTION UNDER SUBSECTION (c).

(b) Except as provided in subsection (c), licensed marriage and family therapists seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, at least 2 hours of approved continuing education in child abuse recognition and reporting

AS A PORTION OF THE TOTAL CONTINUING EDUCATION REQUIRED FOR BIENNIAL RENEWAL. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 48.59 (relating to child abuse recognition and reporting course approval process). The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course WITHIN THE APPLICABLE BIENNIAL RENEWAL PERIOD or the licensee has obtained an exemption under subsection (c). IF A LICENSEE HOLDS MORE THAN ONE LICENSE ISSUED BY THE BOARD, OR HOLDS A LICENSE ISSUED BY ANOTHER LICENSING BOARD WITHIN THE BUREAU THAT REQUIRES MANDATORY TRAINING IN CHILD ABUSE RECOGNITION AND REPORTING, CREDIT FOR COMPLETION OF AN APPROVED COURSE WILL BE APPLIED TO BOTH LICENSES.

(c) An applicant or licensee may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant or licensee meets one of the following:

- (1) The applicant or licensee submits documentation demonstrating that:
  - (i) The applicant or licensee has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).
  - (ii) The training was approved by the Department of Education in consultation with the Department of Human Services.
  - (iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(iv) FOR PURPOSES OF LICENSURE RENEWAL, THE TRAINING MUST HAVE BEEN COMPLETED DURING THE RELEVANT BIENNIAL RENEWAL PERIOD.

(2) The applicant or licensee submits documentation demonstrating that:

(i) The applicant or licensee has already completed child abuse recognition training required by 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(iv) FOR PURPOSES OF LICENSURE RENEWAL, THE TRAINING MUST HAVE BEEN COMPLETED DURING THE RELEVANT BIENNIAL RENEWAL PERIOD.

(3) The applicant or licensee submits documentation ACCEPTABLE TO THE BOARD demonstrating that WHY the applicant or licensee should not be subject to the training or continuing education requirement. THE BOARD WILL NOT GRANT AN EXEMPTION BASED SOLELY UPON PROOF THAT CHILDREN ARE NOT PART OF THE APPLICANT’S OR LICENSEE’S PRACTICE. Each request for an exemption under this paragraph will be considered on a case-by-case basis. THE BOARD MAY GRANT THE EXEMPTION IF IT FINDS THAT COMPLETION OF THE TRAINING OR CONTINUING EDUCATION REQUIREMENT IS DUPLICATIVE OR UNNECESSARY UNDER THE CIRCUMSTANCES.

(d) EXEMPTIONS GRANTED UNDER SUBSECTION (c) ARE APPLICABLE ONLY FOR THE BIENNIAL RENEWAL PERIOD FOR WHICH THE EXEMPTION IS

REQUESTED. IF AN EXEMPTION IS GRANTED, THE BOARD WILL ISSUE OR RENEW THE LICENSE, AS APPLICABLE. IF AN EXEMPTION IS DENIED, THE BOARD WILL EMAIL THE APPLICANT OR LICENSEE A DISCREPANCY NOTICE NOTIFYING THEM OF THE NEED TO EITHER COMPLETE AN APPROVED COURSE OR, IF WARRANTED, TO SUBMIT ADDITIONAL DOCUMENTATION IN SUPPORT OF THEIR REQUEST FOR AN EXEMPTION.

**§ 48.59. Child abuse recognition and reporting course approval process.**

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) (relating to education and training) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services (DOH), Office of Children, Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120 or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649 or electronically at RA-stcpsl course app@pa.gov.

(b) Submissions must include the following:

(1) Contact information (mailing address, email address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

- (4) Timed agenda and estimated hours of training.
- (5) Learning objectives.
- (6) Intended audience.
- (7) All course related materials, including as applicable:
  - (i) Handouts.
  - (ii) Narrated script or talking points.
  - (iii) Interactive activities or exercises.
  - (iv) Videos and audio/visual content.
  - (v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.
  - (vi) For online courses, a transcript of audio training.
- (8) Citation of sources, including written permission to use copyrighted material, if applicable.
- (9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.
- (10) Printed materials used to market the training.
- (11) Evaluation used to assess participants' satisfaction with the training.
- (12) Sample certificate of attendance/participation, which must include:
  - (i) Name of participant.
  - (ii) Title of training.
  - (iii) Date of training.
  - (iv) Length of training (2 or 3 hours).

(v) Name and signature of authorized representative of the providers. The signature may be an electronic signature.

(vi) Statement affirming the participant attended the entire course.

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau’s website and the Board’s website.

**CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE  
AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF  
PROFESSIONAL COUNSELORS**

**§ 49.12. General qualifications for licensure.**

General qualifications and requirements for applicants for licensure are as follows:

\* \* \* \* \*

(5) The applicant has submitted two certificates of recommendation on forms furnished by the Board.

(6) The applicant has completed at least 3 hours of training in child abuse recognition and reporting in accordance with § 49.58(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(7) The applicant has submitted an affirmation signed by the applicant verifying the information on the application.

\* \* \* \* \*

**CONTINUING EDUCATION**

**§ 49.32. Requirement for biennial renewal.**

[For 2009 renewals and thereafter, the Board will require] The Board requires, as a condition of biennial renewal of a professional counselor’s license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs offered by approved providers[ which shall include at least 3 clock hours in ethical issues]. Up to 20 clock hours may be obtained by home study. Excess clock hours may not be carried over to the next biennium. At least 3 of the required 30 clock hours must be related to ethical issues and at least 2 of the required 30 clock hours must be completed in child abuse recognition and reporting in accordance with § 49.58(b) (relating to child abuse recognition and reporting—mandatory training requirement).

\* \* \* \* \*

#### CHILD ABUSE REPORTING REQUIREMENTS

##### § 49.51. Definitions relating to child abuse reporting requirements.

The following words and terms, when used in this section and [§§ 49.52—49.57] §§ 49.52—49.59 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

*Bodily injury*—Impairment of physical condition or substantial pain.

*Bureau*—Bureau of Professional and Occupational Affairs within the Department of State of the Commonwealth.

*Child*—An individual under 18 years of age.

*Child abuse*—[A term meaning any of the following:

- (i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.]

Intentionally, knowingly or recklessly doing any of the following:

(i) Causing bodily injury to a child through any recent act or failure to act.

(ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.

(iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.

(iv) Causing sexual abuse or exploitation of a child through any act or failure to act.

(v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.

(vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(vii) Causing serious physical neglect of a child.

(viii) Engaging in any of the following recent acts:

(A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

(B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.

(C) Forcefully shaking a child under 1 year of age.

(D) Forcefully slapping or otherwise striking a child under 1 year of age.

(E) Interfering with the breathing of a child.

(F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), when the victim of the sexual offense was under 18 years of age when the crime was committed.

(II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(ix) Causing the death of the child through any act or failure to act.

(x) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

*ChildLine*—An organizational unit of the Department of [Public Welfare] Human Services, which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

*[Individual residing in the same home as the child*—An individual who is 14 years of age or older and who resides in the same home as the child.]

~~*Mandated reporter*—A person who is required under § 49.52 (relating to suspected child abuse—mandated reporting requirements)~~ 23 PA.C.S. § 6311 (RELATING TO PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE) to make a report of suspected child abuse. For purposes of this chapter, the term includes all licensed professional counselors.

~~*Parent*—A biological parent, adoptive parent or legal guardian.~~

~~*Perpetrator*—[A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child’s parent]~~ A person who has committed child abuse as defined in this section.

(i) This term includes only the following:

(A) A parent of the child.

(B) A spouse or former spouse of the child’s parent.

(C) A paramour or former paramour of the child’s parent.

(D) ~~A person~~ AN INDIVIDUAL 14 years of age or older ~~and~~ WHO IS A PERSON responsible for the child’s welfare or ~~having~~ WHO HAS direct contact

with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption of TO the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A ~~seuse~~ SPOUSE or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person RESPONSIBLE FOR THE CHILD'S WELFARE WHO IS 18 years of age or older ~~and responsible for the child's welfare.~~

(E) A person 18 years of age or older who resides in the same home as the child.

*Person responsible for the child's welfare—*

[(i)] A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

[(ii) The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.]

Program, activity or service—Any of the following in which children participate and which is sponsored by a school or by a public or private organization:

- (i) A youth camp or program.
- (ii) A recreational camp or program.
- (iii) A sports or athletic program.
- (iv) A community or social outreach program.
- (v) An enrichment or educational program.
- (vi) A troop, club or similar organization.

Recent [acts or omissions—Acts or omissions] act or failure to act—An act or failure to act committed within 2 years of the date of the report to the Department of [Public Welfare] Human Services or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

- (i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.
- (ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

[Serious physical injury—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.]

Serious physical neglect—Any of the following when committed by a perpetrator that endangers a child’s life or health, threatens a child’s well-being, causes bodily injury or impairs a child’s health, development or functioning:

- (i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child’s developmental age and abilities.
- (ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Sexual abuse or exploitation—[The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.] Any of the following:

- (i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:
  - (A) Looking at sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
  - (B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual

- (C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
- (D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.
- (ii) Any of the following offenses committed against a child:
  - (A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).
  - (B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
  - (C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
  - (D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).
  - (E) Institutional sexual assault as defined in 18 Pa.C.S. 3124.2 (relating to institutional sexual assault).
  - (F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
  - (G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).
  - (H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
  - (I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
  - (J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

**§ 49.52. Suspected child abuse—mandated reporting requirements.**

**(a) General rule.**

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensed professional counselors [who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare and to the appropriate county agency when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse] are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

~~(1)~~ (i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

~~(2)~~ (ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

~~(3)~~ (iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

~~(4)~~ (iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) NOTHING IN THIS SUBSECTION SHALL REQUIRE A CHILD TO COME BEFORE THE MANDATED REPORTER TO MAKE A REPORT OF SUSPECTED CHILD ABUSE.

(3) NOTHING IN THIS SUBSECTION SHALL REQUIRE THE MANDATED REPORTER TO IDENTIFY THE PERSON RESPONSIBLE FOR THE CHILD ABUSE TO MAKE A REPORT OF SUSPECTED CHILD ABUSE.

(b) *Staff members of public or private agencies, institutions and facilities.* [Licensed professional counselors who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they

have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the licensed professional counselor, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d)] Whenever a licensed professional counselor is required to make a report under subsection (a) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that licensed professional counselor shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) *Reporting procedure.* [Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) *Written reports.* Written reports shall be made to the appropriate county agency within 48 hours after the oral report is made by telephone and must contain, at a minimum, the information required by the Department of Public Welfare in 55 Pa. Code § 3490.18 (relating to filing of a written report by a required reporter).]

(1) A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(i) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and

format prescribed by the Department of Human Services. The written report submitted under this subparagraph may be submitted electronically.

(ii) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service’s Child Welfare Information Solution self-service portal at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis). A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(2) A written or electronic report of suspected child abuse must include the following information, if known:

(i) The names and addresses of the child, the child’s parents and any other person responsible for the child’s welfare.

(ii) Where the suspected child abuse occurred.

(iii) The age and sex of each subject of the report.

(iv) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.

(v) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.

(vi) Family composition.

(vii) The source of the report.

(viii) The name, telephone number and e-mail address of the person making the report.

(ix) The actions taken by the person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.

(x) Other information required by Federal law or regulation.

(xi) Other information that the Department of Human Services may require by regulation.

**§ 49.53. Photographs[, medical tests and X-rays] of child subject to report.**

A licensed professional counselor may take or cause to be taken photographs of the child who is subject to a report[ and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child]. [Medical summaries] Summaries or reports of the photographs[, X-rays and relevant medical tests] taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 49.52(c)(1)(ii) (relating to suspected child abuse—mandated reporting requirements), or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates[ and X-rays] and may obtain them or duplicates of them upon request. SUMMARIES OR REPORTS OF THE PHOTOGRAPHS SHALL BE MADE AVAILABLE TO LAW ENFORCEMENT OFFICIALS IN THE COURSE OF INVESTIGATING CASES UNDER 23 PA.C.S. § 6490(a)(9) OR (10) (RELATING TO RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS).

**§ 49.54. Suspected death as a result of child abuse—mandated reporting requirement.**

A licensed professional counselor who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

**§ 49.55. Immunity from liability.**

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a licensed professional counselor who participates in good faith in the making of a report of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse or general protective services or [the taking of photographs] engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity from civil and criminal liability that might otherwise result by reason of the licensed professional counselor's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensed professional counselor shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensed professional counselor's actions [in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs] under §§ 49.52—49.54 (relating to suspected child abuse—mandated reporting requirements; photographs[, medical tests and X-rays] of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

**§ 49.56. Confidentiality—waived.**

To protect children from abuse, the reporting requirements of §§ 49.52—49.54 (relating to suspected child abuse—mandated reporting requirements; photographs[, medical tests and X-rays] of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a

patient/client does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse. Additionally, under 23 Pa.C.S. § 6313(e) (relating to reporting procedure), notwithstanding any other provision of law to the contrary, a mandated reporter who makes a report of suspected child abuse does not violate the Mental Health Procedures Act (50 P.S. §§ 7101—7503) by releasing information necessary to complete the report.

**§ 49.57. Noncompliance.**

(a) *Disciplinary action.* A licensed professional counselor who willfully fails to comply with the reporting requirements in §§ 49.52—49.54 (relating to suspected child abuse—mandated reporting requirements; photographs[, medical tests and X-rays] of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 11 of the act (63 P. S. § 1911).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties [for failure to report]), a licensed professional counselor who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities and who willfully fails to do so commits [a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.] a criminal offense, as follows:

(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if all of the following apply:

(i) The mandated reporter willfully fails to report.

(ii) The child abuse constitutes a felony of the first degree or higher.

(iii) The mandated reporter has direct knowledge of the nature of the abuse.

(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.

(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

**§ 49.58. Child abuse recognition and reporting—mandatory training requirement.**

(a) Except as provided in subsection (c), individuals applying to the Board for a license as a professional counselor shall complete, as a condition of licensure, at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services AND THE BUREAU, AS SET FORTH IN § 49.59 (RELATING TO CHILD ABUSE RECOGNITION AND REPORTING COURSE APPROVAL PROCESS). THE APPLICANT SHALL CERTIFY ON THE APPLICATION THAT THE APPLICANT HAS EITHER COMPLETED THE REQUIRED TRAINING OR HAS BEEN GRANTED AN EXEMPTION UNDER SUBSECTION (c). THE BOARD WILL NOT ISSUE A LICENSE UNLESS THE BUREAU HAS RECEIVED AN ELECTRONIC REPORT FROM AN APPROVED COURSE PROVIDER DOCUMENTING THE ATTENDANCE/

PARTICIPATION BY THE APPLICANT OR THE APPLICANT HAS OBTAINED AN EXEMPTION UNDER SUBSECTION (c).

(b) Except as provided in subsection (c), licensed professional counselors seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, at least 2 hours of approved continuing education in child abuse recognition and reporting as a portion of the total continuing education required for biennial renewal. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 49.59 (relating to child abuse recognition and reporting course approval process). The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course WITHIN THE APPLICABLE BIENNIAL RENEWAL PERIOD or the licensee has obtained an exemption under subsection (c). IF A LICENSEE HOLDS MORE THAN ONE LICENSE ISSUED BY THE BOARD, OR HOLDS A LICENSE ISSUED BY ANOTHER LICENSING BOARD WITHIN THE BUREAU THAT REQUIRES MANDATORY TRAINING IN CHILD ABUSE RECOGNITION AND REPORTING, CREDIT FOR COMPLETION OF AN APPROVED COURSE WILL BE APPLIED TO BOTH LICENSES.

(c) An applicant or licensee may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant or licensee meets one of the following:

(1) The applicant or licensee submits documentation demonstrating that:

(i) The applicant or licensee has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

(ii) The training was approved by the Department of Education in consultation with the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(iv) FOR PURPOSES OF LICENSURE RENEWAL, THE TRAINING MUST HAVE BEEN COMPLETED DURING THE RELEVANT BIENNIAL RENEWAL PERIOD.

(2) The applicant or licensee submits documentation demonstrating that:

(i) The applicant or licensee has already completed child abuse recognition training required by 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(iv) FOR PURPOSES OF LICENSURE RENEWAL, THE TRAINING MUST HAVE BEEN COMPLETED DURING THE RELEVANT BIENNIAL RENEWAL PERIOD.

(3) The applicant or licensee submits documentation ACCEPTABLE TO THE BOARD demonstrating ~~that~~ WHY the applicant or licensee should not be subject to the training or continuing education requirement. THE BOARD WILL NOT GRANT AN EXEMPTION BASED SOLELY UPON PROOF THAT CHILDREN ARE NOT PART

OF THE APPLICANT’S OR LICENSEE’S PRACTICE. Each request for an exemption under this paragraph will be considered on a case-by-case basis. THE BOARD MAY GRANT THE EXEMPTION IF IT FINDS THAT COMPLETION OF THE TRAINING OR CONTINUING EDUCATION REQUIREMENT IS DUPLICATIVE OR UNNECESSARY UNDER THE CIRCUMSTANCES.

(d) EXEMPTIONS GRANTED UNDER SUBSECTION (c) ARE APPLICABLE ONLY FOR THE BIENNIAL RENEWAL PERIOD FOR WHICH THE EXEMPTION IS REQUESTED. IF AN EXEMPTION IS GRANTED, THE BOARD WILL ISSUE OR RENEW THE LICENSE, AS APPLICABLE. IF AN EXEMPTION IS DENIED, THE BOARD WILL EMAIL THE APPLICANT OR LICENSEE A DISCREPANCY NOTICE NOTIFYING THEM OF THE NEED TO EITHER COMPLETE AN APPROVED COURSE OR, IF WARRANTED, TO SUBMIT ADDITIONAL DOCUMENTATION IN SUPPORT OF THEIR REQUEST FOR AN EXEMPTION.

**§ 49.59. Child abuse recognition and reporting course approval process.**

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services (DOH), Office of Children,

Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120 or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649 or electronically at RA-stcpsl course app@pa.gov.

(b) Submissions must include the following:

(1) Contact information (mailing address, email address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) All course related materials, including as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which must include:

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

(iv) Length of training (2 or 3 hours).

(v) Name and signature of the authorized representative of the provider. The signature may be an electronic signature.

(vi) Statement affirming the participant attended the entire course.

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau's website and the Board's website.

\* \* \* \* \*



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
**STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY  
THERAPISTS AND PROFESSIONAL COUNSELORS**  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-1389

November 30, 2021

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harrisstown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Final Regulation  
State Board of Social Workers, Marriage and Family Therapists and Professional  
Counselors  
16A-6919: Child Abuse Reporting Requirements

Dear Chairman Bedwick:

Enclosed is a copy of a final rulemaking package of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors pertaining to Child Abuse Reporting Requirements.

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

Sincerely,

*Joy E. Corby Ph.D., LMFT*

Joy E. Corby, Ph.D., LMFT, Chairperson  
State Board of Social Workers, Marriage and Family  
Therapists and Professional Counselors

JEC/ckm:bmz  
Enclosure

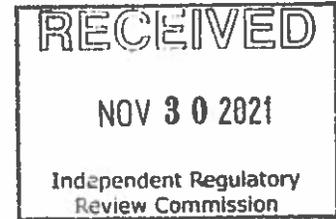
cc: K. Kalonji Johnson, Commissioner of Professional and Occupational Affairs  
Pamela Iovino, Deputy Secretary of Regulatory Programs  
Marc Farrell, Deputy Director of Policy, Department of State  
Cynthia Montgomery, Deputy Chief Counsel, Department of State  
Jacqueline A. Wolfgang, Regulatory Unit Counsel, Department of State  
Jaime D. Black, Counsel, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors  
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors

**Zappasodi, Brittany**

---

**From:** Blauch, Tammy <tblauch@pasen.gov>  
**Sent:** Tuesday, November 30, 2021 11:40 AM  
**To:** Zappasodi, Brittany; Smeltz, Jennifer  
**Subject:** RE: DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953

Hello Brittany,  
Yes, our office has received your email with the latest regulations.



*Tammy Blauch*  
Executive Secretary  
Office of Senator Robert M. Tomlinson  
Room 286 Main Capitol Building  
Harrisburg, PA 17120  
(717)-787-5072  
Fax: (717)772-2991  
[tblauch@pasen.gov](mailto:tblauch@pasen.gov)

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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:40 AM  
**To:** Smeltz, Jennifer <jmsmeltz@pasen.gov>; Blauch, Tammy <tblauch@pasen.gov>  
**Subject:** DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953  
**Importance:** High

Ⓢ CAUTION : External Email Ⓢ

**Please provide written (email) confirmation of receipt of the delivery of the attached rulemakings.**

Please be advised that the State Board of Funeral Directors, the State Board of Nursing, the State Board of Social Workers, Marriage and Family Therapists, and Professional Counselors and the State Board of Medicine are delivering the following final rulemakings:

- 16A-4824: Child Abuse Reporting Requirements
- 16A-5140: Child Abuse Reporting Requirements
- 16A-6919: Child Abuse Reporting Requirements
- 16A-4941: Child Abuse Reporting Requirements

Also, please be advised that the State Board of Medicine is delivering the following proposed rulemaking:

- 16A-4953: Registration of Naturopathic Doctors

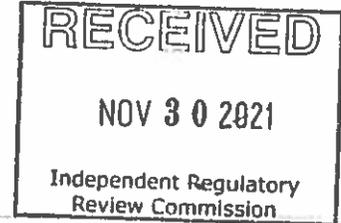
**Brittany Zappasodi | Legal Assistant II**  
Office of Chief Counsel | Department of State

## Zappasodi, Brittany

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**From:** Livingston, Jerry <Jerry.Livingston@pasenate.com>  
**Sent:** Tuesday, November 30, 2021 9:16 AM  
**To:** Zappasodi, Brittany; Vazquez, Enid  
**Subject:** RE: DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953

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Received, thank you.

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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:39 AM  
**To:** Livingston, Jerry <Jerry.Livingston@pasenate.com>; Vazquez, Enid <Enid.Vazquez@pasenate.com>  
**Subject:** DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953  
**Importance:** High

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**Brittany Zappasodi | Legal Assistant II**  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
Phone 717.783.7200 | Fax 717.787.0251  
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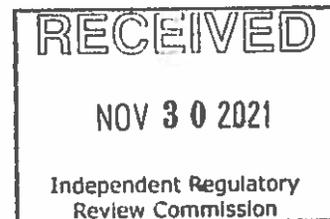
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## Zappasodi, Brittany

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**From:** Wilson, Marlene <MWilson@pahouse.net>  
**Sent:** Tuesday, November 30, 2021 9:20 AM  
**To:** Zappasodi, Brittany  
**Subject:** RE: DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged



Received. Thank you.



*Marlene Wilson, Esquire  
Senior Committee Executive Director  
House Professional Licensure Committee  
Rep. Jake Wheatley, Jr., Chairman  
Phone: (717) 787-4032  
Internal Phone: 6253  
Email - [mwilson@pahouse.net](mailto:mwilson@pahouse.net)*

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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:40 AM  
**To:** Wilson, Marlene <MWilson@pahouse.net>  
**Subject:** DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953  
**Importance:** High

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**Brittany Zappasodi | Legal Assistant II**

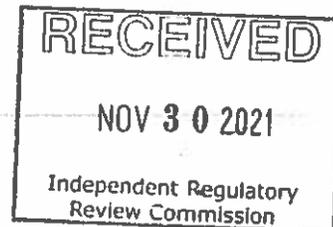
## Zappasodi, Brittany

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**From:** Nicole Sidle <Nside@pahousegop.com>  
**Sent:** Tuesday, November 30, 2021 9:07 AM  
**To:** Zappasodi, Brittany; Emily Hackman  
**Subject:** RE: DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953

Received.

**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:39 AM  
**To:** Nicole Sidle <Nside@pahousegop.com>; Emily Hackman <Eepler@pahousegop.com>  
**Subject:** DELIVERY: REGULATIONS 16A-4824, 16A-5140, 16A-6919, 16A-4941, 16A-4953  
**Importance:** High



**Please provide written (email) confirmation of receipt of the delivery of the attached rulemakings.**

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- 16A-4941: Child Abuse Reporting Requirements

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**Brittany Zappasodi | Legal Assistant II**  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
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[bzappasodi@pa.gov](mailto:bzappasodi@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)

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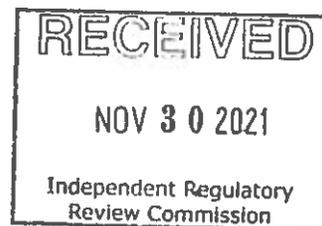
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## Zappasodi, Brittany

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**From:** Bulletin <bulletin@palrb.us>  
**Sent:** Tuesday, November 30, 2021 8:52 AM  
**To:** Zappasodi, Brittany  
**Cc:** Code&Bulletin  
**Subject:** [External] RE: DELIVERY: REGULATION 16A-4953



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Good morning Brittany,

Thank you for sending this rulemaking. Someone from our office will contact you regarding publication in the Pennsylvania Bulletin.

Take care,

**Ernest L. Engvall | Legal Assistant**  
[eengvall@palrb.us](mailto:eengvall@palrb.us) | 717.783.1531  
Legislative Reference Bureau  
Code and Bulletin Office

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**From:** Zappasodi, Brittany <bzappasodi@pa.gov>  
**Sent:** Tuesday, November 30, 2021 8:42 AM  
**To:** Bulletin <bulletin@palrb.us>  
**Subject:** DELIVERY: REGULATION 16A-4953  
**Importance:** High

**Please provide written (email) confirmation of receipt of the delivery of the attached rulemaking.**

Please be advised that the State Board of Medicine is delivering the following proposed rulemaking:

- 16A-4953: Registration of Naturopathic Doctors

**Brittany Zappasodi | Legal Assistant II**  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
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