

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p>		<p style="margin: 0;"><i>INDEPENDENT REGULATORY REVIEW COMMISSION</i></p> <h1 style="margin: 0;">RECEIVED</h1>
<p style="margin: 0;"><small>(All Comments submitted on this regulation will appear on IRRC's website)</small></p>		<p style="margin: 0;">MAY 22 2023</p>
<p style="margin: 0;">(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board Optometry</p>		<p style="margin: 0;">Independent Regulatory Review Commission</p>
<p style="margin: 0;">(2) Agency Number: 16A Identification Number: 5218</p>		<p style="margin: 0;">IRRC Number: 3314</p>
<p style="margin: 0;">(3) PA Code Cite: 49 Pa. Code §§ 23.27, 23.27a and 23.27b</p>		
<p style="margin: 0;">(4) Short Title: License by Endorsement under 63 Pa.C.S. § 3111</p>		
<p style="margin: 0;">(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact Shawn J. Jayman, Board Counsel, State Board of Optometry, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) (shjayman@pa.gov). Secondary Contact: Jacqueline A. Wolfgang, Senior Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) <u>jawolfgang@pa.gov.</u></p>		
<p style="margin: 0;">(6) Type of Rulemaking (check applicable box):</p> <p style="margin: 0;"><input type="checkbox"/> Proposed Regulation <input checked="" type="checkbox"/> FINAL REGULATION <input type="checkbox"/> Final Omitted Regulation</p>		<p style="margin: 0;"><input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General</p>
<p style="margin: 0;">(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p style="margin: 0;">Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires the State Board of Optometry to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another jurisdiction whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency by methods determined by the Board; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the Board determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the Board determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional</p>		

license, certificate, registration, or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration.

The act of July 1, 2020, (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) into Title 63, Chapter 31 of the Pennsylvania Consolidated Statutes. The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41) (Act 41). This rulemaking effectuates Act 41.

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

Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. Additionally, section 3(b)(14) of the Optometric Practice and Licensure Act (act) (63 P.S. § 244.3(b)(14)) provides the Board with authority to promulgate all rules and regulations necessary to carry out the purposes of the act.

The act of July 1, 2020, (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) into 63 Pa.C.S. Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41) (Act 41).

(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.

63 Pa.C.S. § 3111(a)(5) requires the Board to set the fee to be charged by regulation and subsection (b)(2) requires the Board to set an expiration of the provisional endorsement license. Otherwise, it is not mandated by any Federal or state law or court order, or Federal regulation.

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

The regulation is needed to implement 63 Pa.C.S. § 3111 to provide for licensure by endorsement to applicants from other states, territories and countries. Act 41 was enacted due to a recognition that licensed professionals from other jurisdictions have difficulty obtaining a license to practice in this Commonwealth. Licensure by endorsement under 63 Pa.C.S. § 3111 helps eliminate unnecessary barriers

to licensure for citizens from other jurisdictions and for military personnel and their spouses while maintaining sufficient safeguards to ensure public protection. 63 Pa.C.S. § 3111 enables boards and commissions under the Bureau of Professional and Occupational Affairs to issue a license by endorsement, and further provides for a provisional endorsement license to quickly move these professionals into the workforce without unnecessary delays, which reduces the barriers to employment. Since the effective date of Act 41 (August 30, 2019), the Board has received and considered 6 licensure by endorsement applications. Of the six applications, the Board has issued three provisional licenses. All three applicants completed the requirements put forth in the order granting provisional licenses and now hold optometric licenses. Based upon the number of applications received, the Board estimates receiving up to 4 applications on an annual basis.

(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.

There are no federal standards applicable to the subject matter of the regulation.

(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. The purpose of 63 Pa.C.S. § 3111 is to make it easier for out-of-state applicants, including military spouses, who have an out-of-state professional or occupational license to work in Pennsylvania. The purpose of 63 Pa.C.S. § 3111 is to reduce barriers to employment, which will make Pennsylvania more competitive. 63 Pa.C.S. § 3111 and the Board's proposed regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy. Surrounding states also have similar laws and regulations for licensure by endorsement in the optometry field.

In comparing the proposed regulation to other states, the Board researched states in the Northeastern region of the United States. The Board identified one other State (New Jersey) that has a comprehensive license by endorsement law that is applicable to the various professional licensing boards in New Jersey. Similar to 63 Pa.C.S. § 3111, New Jersey requires its professional licensing boards to issue a license to any person who holds a current professional or occupational license in good standing whose licensure standards are substantially equivalent to the current standards of New Jersey. Similar to 63 Pa.C.S. 3111, New Jersey requires applicants to demonstrate competency through its requirement of practicing within five years prior to the date of the application. Pennsylvania also allows for additional methods of competency, for which the Board included completion of continuing education and a skills examination. Thus, Pennsylvania's competency requirements are similar to New Jersey and even provide for more ways to demonstrate competency. Additionally, unlike the Board's proposed regulations, New Jersey does not provide discretion to issue a discretionary provisional license.

The Board also researched whether other optometry state boards have similar licensure by endorsement laws and regulations applicable to the optometry profession. For those states that have similar licensure by endorsement laws and regulations applicable to the optometry profession, the Board compared the following criteria: eligibility requirements (substantial equivalence or other standard); competency methods; and provisional licenses, including expiration of the provisional license.

Connecticut

Connecticut offers licensure by examination and provides for an exception to licensure by examination. An applicant must have a valid license in good standing in another state/territory of the United States and must demonstrate verification of all current and expired licenses from other state's that applicant has ever acquired. Connecticut also requires proof of successful completion of an examination by the board of registration of optometry in another state. The licensure requirements in the state where the applicant holds a current license must be equivalent to, or higher, than the requirements to obtain licensure in Connecticut. The licensure requirements of Connecticut do not contain a competency requirement, nor do they provide for provisional licensure.

Delaware

Delaware offers licensure by reciprocity if the requirements of the state where the applicant currently holds a license are equal to or greater than the licensure requirements of Delaware. The applicant must hold a current license and provide a statement from each jurisdiction where applicant is currently licensed, or has previously been licensed, confirming that there are no disciplinary proceedings or unresolved complaints against applicant. Delaware also has a competency requirement in which the applicant must have practiced for at least 5 years in any one jurisdiction (not aggregate from all jurisdictions) where they hold a license. Delaware does not offer a provisional license.

Maryland

Maryland offers an "examination waiver" to an applicant that is licensed to practice optometry in any other state if the applicant can prove that they were licensed by examination in another jurisdiction and that the applicant has not failed the licensing examination within the last five years. The applicant must also demonstrate competency by providing proof of completion of the continuing education requirements of the other jurisdiction for the three years preceding the application and must provide proof of actively practicing optometry for the three years preceding the application. Maryland also has a provision to grant a limited, 1-year license to an out-of-state applicant, while the applicant completes additional requirements. This 1-year license may be limited in scope to institution or patients.

Massachusetts

Massachusetts offers an exemption from written examination to any person who can present to the board a certified copy or certificate of registration or license which was issued to the applicant after examination by a board of registration in optometry in any other state, where the requirements for registration are in the opinion of the board equivalent to those of Massachusetts. The applicant's state of licensure must allow for a similar privilege to holders of certificates of registration issued in Massachusetts. The applicant must also provide proof that they have not previously failed to pass the examination required in Massachusetts. Massachusetts also has a competency requirement in that the applicant must have engaged in the reputable practice of optometry continuously for not less than three years immediately preceding their application. Massachusetts does not offer a provisional license.

Maine

Maine does not currently have a provision to obtain licensure by reciprocity/endorsement.

New Hampshire

New Hampshire offers licensure to an applicant who is licensed in any other state, provided the other state's licensing requirements are substantially equivalent to, or higher, than those of New Hampshire. There are no provisions establishing a competency requirement or providing for a provisional license.

New York

New York offers licensure by endorsement to an applicant who can demonstrate competency by providing proof of practicing optometry for at least five years following initial licensure and within the ten years immediately preceding the application for licensure by endorsement. An applicant must also provide proof of passing an examination that is approved by the New York board and must complete the practical examination. New York does not offer a provisional license.

Ohio

Ohio offers licensure by reciprocity if an applicant can demonstrate that their state's licensure requirements are at least as stringent as Ohio's standards and provide proof of successful completion of a written licensure exam. An applicant must also provide certification that they are licensed in good standing with the out-of-state optometry board. Ohio also requires that the applicant demonstrate competency by providing proof that they have been actively engaged in the practice of optometry, including the use of therapeutic pharmaceutical agents, for at least three years immediately preceding making application. Ohio also requires that the applicant participate in a two-hour instruction session provided by the board, which focuses on Ohio optometry statutes and rules, and must pass a test on the subject matter afterwards. Ohio offers a provisional license under limited circumstances, to a military member, or their spouse, who is in the state on a temporary basis.

Rhode Island

Rhode Island offers registration to optometrists from other states if the applicant provides evidence that the other states registration requirements are equivalent to those of Rhode Island. An applicant must demonstrate competency by completing an internship program or providing proof of a minimum of six months full-time practice in another jurisdiction. The other state must also acknowledge reciprocity with Rhode Island before a registration will be issued. Rhode Island does not offer a provisional license.

Vermont

Vermont offers licensure by endorsement to an applicant who is licensed and currently in good standing in a United States jurisdiction which has license requirements that are substantially equivalent to the requirements of Vermont. Vermont does not have a competency requirement and does not offer a provisional license.

West Virginia

West Virginia offers reciprocal licensure to an applicant who is of good moral character and holds a current optometry license in good standing from another state, or states, which requirements are substantially equivalent to those required in West Virginia. The applicant must not have committed any acts that would constitute grounds for disciplinary action in West Virginia and must provide proof of successfully passing an examination approved by the West Virginia board. West Virginia requires that an applicant demonstrate competency by providing evidence that the applicant engaged in the active practice of optometry for five

of the past seven years immediately preceding the submission of the application. West Virginia does not offer a provisional license.

Based on this information, the Board does not believe the proposed amendments will put Pennsylvania at a competitive disadvantage. Pennsylvania's endorsement requirements are on par with most states that offer licensure by endorsement, and in some cases are more competitive. Pennsylvania requires other jurisdictions' standards to be substantially equivalent, which provides a safeguard to people of the Commonwealth, without creating a barrier to licensure. Some neighboring states require standards to be equivalent, which makes those states more stringent than Pennsylvania. Pennsylvania will also be at a competitive advantage in that the proposed regulations offer three different pathways to establishing competency, while some of the other jurisdictions only offer one method to demonstrate competency. Pennsylvania's competitive advantage is even more noticeable when considering the Board's ability to grant a provisional license, which allows an applicant to begin practicing the profession while completing remaining licensure requirements, an option not offered by many other states. Furthermore, Pennsylvania is offering a license by endorsement to individuals that hold a license in another state, territory or country, while many other states only offer a license by endorsement to individuals licensed in another state. Pennsylvania charges an application fee which is a commonality between all of the states that offer reciprocity or endorsement.

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

This rulemaking does not affect other regulations of the Board or other state agencies.

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

In drafting the proposal, the Board sent an exposure draft to stakeholders and interested parties in February of 2020. The Board did not receive any comments from stakeholders and interested parties. A list of the stakeholders is attached to the RAF. See Attachment "A."

The Board published a notice of proposed rulemaking at 51 Pa.B. 6046 (September 18, 2021), for thirty days of public comment. The Board did not receive any comments from the public. The House Professional Licensure Committee (HPLC) submitted comments. As part of its review under the Regulatory Review Act, the Independent Regulatory Review Commission (IRRC) submitted comments. The Board received no comments from the Senate Consumer Protections and Licensure Committee (SCP/PLC). The final rulemaking was presented to the Board on May 19, 2022, and again, on December 1, 2022, at which time the Board adopted the final rulemaking.

(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?

For purposes of this rulemaking, the Board estimates that approximately 3 to 5 individuals will apply for license by endorsement on an annual basis.

According to the 2022 Small Business Administration (SBA) Profile, there are approximately 1.1 million businesses in Pennsylvania, with 99.6 percent of those being small businesses. Of the 1,074,787 small businesses, 46.2% are small business employers (those with fewer than 500 employees) and employ approximately 2,512,633 employees. The remaining 578,35 small businesses are non-employers. Thus, the vast majority of businesses in Pennsylvania are considered small businesses.

According to the most recent 2020 data from the Pennsylvania Department of Labor and Industry, 43.93% of optometrists are employed by offices of other health practitioners; 24.22% are employed by offices of physicians; 19.71% are self-employed; 7.15% work in health and personal care stores; 1.32% work in dental offices and 1.14% are employed by the Federal Government. The remaining 2.53% are employed by colleges, outpatient care centers, other ambulatory health care services and specialty hospitals.

Small businesses are defined in Section 3 of the Regulatory Review Act, 71 P.S. § 745.3 which states that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). Optometrists diagnose, manage, and treat conditions and diseases of the human eye and visual system. They prescribe corrective lenses and provide treatment. They may prescribe therapeutic drugs to treat specific eye conditions. In applying the NAICS standards to the types of businesses where optometrists may work, for offices of optometrists (NAICS code 621320), the small business threshold is \$8 million or less in average annual receipts. Offices of all other miscellaneous health practitioners (621399) have a small business threshold of \$9 million or less in average annual receipts. Offices of physicians (621111) have a small business threshold of \$14 million or less in average annual receipts. Dental offices (621210) have a small business threshold of \$8 million or less in average annual receipts. Colleges, Universities and professional schools (611310) have a small business threshold of \$30 million or less in average annual receipts.

This rulemaking only affects individuals who apply for license by endorsement under 63 Pa.C.S. § 3111. These individuals would be impacted by the \$25 fee to apply for licensure. This fee is the same amount as applicants who apply by reciprocity under the act. Whether small businesses will be impacted by the regulations depends on whether the businesses would pay the application fee for licensure by endorsement, endorsement and whether employers voluntarily pay the costs of completing competency requirements, which may include completion of continuing education (approximately \$15 per credit or \$450 for 30 credits) or examination (\$1,060).

Because the application fees and other costs are incurred by individuals applying for license by endorsement, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs. Moreover, the proposed rulemaking will have a positive impact in that it is implementing 63 Pa.C.S. § 3111, which provides an additional pathway to licensure that previously did not exist.

(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.

Individuals applying for license by endorsement under 63 Pa.C.S. § 3111 as an optometrist will need to comply with this rulemaking. The Board estimates an average of 3-5 licensure by endorsement applications a year for this profession. Small businesses will only need to comply with this rulemaking to the extent they voluntarily pay licensure fees and other costs for applicants.

(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 Commonwealth will benefit by licensure by endorsement under 63 Pa.C.S. § 3111. The purpose of 63 Pa.C.S. § 3111 is to make it easier for out-of-state applicants, including military spouses, who have an out-of-state professional or occupational license to work in Pennsylvania. 63 Pa.C.S. § 3111 also reduces barriers to employment, which will make Pennsylvania more competitive. 63 Pa.C.S. § 3111 and the Board's regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.

The citizens of the Commonwealth will also benefit from the enhanced workforce and growth in economy while still having assurance of a level of competence similar to existing licensees in this Commonwealth. The Board has decided to offer three methods of competence, including practicing optometry for two of the five years immediately preceding the date of application, completing 30 hours of continuing education or achieving a passing score in a board-approved skills examination. An applicant may choose any of the three methods. These methods assure competency because practicing for two of the previous five years establishes that applicant has remained current in optometric treatment by physically practicing the profession within the past five years. Additionally, completing 30 hours of continuing education in compliance with the Board's requirements establishes that the applicant has remained abreast of current issues and new developments in the practice of optometry, as this is the requirement for optometry licensees in the Commonwealth to maintain competency for renewal of their license. Also, completion of a board approved skills examination establishes that an individual is up to date on current practices in optometry, as passing a skills examination is required of initial licensees to establish minimum competency in the practice of optometry.

The financial impact of the regulation falls primarily on the applicants and the Board. Individuals seeking licensure by endorsement will incur costs associated with qualifying for and obtaining a license. As noted above, an applicant applying for license by endorsement under 63 Pa.C.S. § 3111 would be required to pay the \$25 application fee, which covers the costs of processing the application. This application fee is the same for other applicants applying by reciprocity or initial licensure by examination authorized by the Optometry Practice and Licensure Act. The applicant must also establish competency by one of the three items delineated. If an applicant is proving competency through practicing two of the last five years, there would be no additional cost to the applicant. However, if the applicant is establishing competency by completing 30 hours of continuing education, the cost to the applicant would vary. Continuing education courses can vary from no cost to the recipient, to \$15 per credit hour and approximately \$150 for conferences that provide up to eight hours of continuing education credit. However, most jurisdictions require continuing education; therefore, if an applicant has obtained continuing education for the other jurisdiction, it could also be used to show competency here. If the applicant opts to establish competency by successfully passing a board-approved skills exam, the applicant would be taking the National Board

of Examiners in Optometry (NBEO) clinical skills exam, which currently costs \$1,060. However, if the applicant has passed the NBEO skills exam or its equivalent within 2 years immediately preceding the date of the application, the applicant would not incur any expense to show competency. For foreign applicants, if the other law, regulation or other rule is in a language other than English, § 23.27a(a)(1)(ii) would require the applicant to have it professionally translated at the applicant's expense. The Board anticipates that the translation costs will be approximately \$25 per page and range between two and five pages in length. Since the enactment of Act 41, the Board has not received any foreign applications.

The positive impact for the applicants is that 63 Pa.C.S. § 3111 and the proposed regulation provides a new pathway to licensure that did not previously exist.

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

As previously discussed, 63 Pa.C.S. § 3111 benefits this Commonwealth and its citizens and individual applicants wishing to obtain licensure. The costs associated with obtaining licensure are outweighed by the need of the Board to set fees to cover its costs for processing applications to maintain the fiscal integrity of the Board, and by the equity of assessing the costs of processing applications to the applicants themselves, as opposed to the existing licensee population bearing these costs through increased biennial renewal fees. The General Assembly contemplated and weighed the impact of imposing fees on applicants in 63 Pa.C.S. § 3111(a)(5) against the benefits of providing an additional pathway to licensure to individuals from other jurisdictions. While avoiding economic impact to applicants is always preferable, the General Assembly recognized that boards fees are necessary in order to pay for the costs associated with the filing of applications.

Regarding the cost of translating the law, regulation or other rule to English, this is a necessary part of the application process. If the Board is unable to understand the other jurisdiction's requirements, it will not be able to determine whether those requirements are substantially equivalent.

Regarding costs associated with demonstrating competency, the Board is authorized to select the methods of competency under 63 Pa.C.S. § 3111(a)(2). An applicant may incur costs when complying with the Board's competency requirements. If an applicant chooses to satisfy competency requirements through continuing education, the cost of completing 30 hours of continuing education will depend on the applicant. As the applicant would have to hold a current license to apply for licensure, it is likely that an applicant will already have completed most if not all of the 30 hours continuing education that the Board is requiring. If the applicant needs to complete additional continuing education, the costs may vary from continuing education that costs nothing or continuing education that costs roughly \$15 per credit hour, which would cost up to \$450 for 30 credits. An applicant may also prove competency through successfully passing a board-approved skills exam, the exam costs \$1,060. However, as previously mentioned, if an applicant passed the NBEO skills exam or its equivalent within 2 years immediately preceding the date of the application, the applicant would not incur additional costs. Similarly, if an applicant has practiced optometry for two of the last five years, there would be no costs relating to competency. Three of the six applicants demonstrated competency by practicing for two of the last five years.

In this final rulemaking, the Board provides for three different pathways to establish competency. In many cases there will be no cost to applicants as the Board anticipates that many applicants will have practiced for two of the last five years or already completed continuing education. The Board is confident that each of the three mechanisms provided establishes competency in the optometric profession. Therefore, applicants may determine which method of competency best suits their situation and timeline for obtaining licensure.

(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.

An individual applying for license by endorsement under 63 Pa.C.S. § 3111 will incur some costs, including paying the \$25 application fee and the costs associated with demonstrating competency through completion of continuing education, with a cost of up to \$450, or completion of a board-approved skills exam, with a cost of \$1,060. Since the effective date of Act 41, the Board has received 6 license by endorsement applications. Therefore, since August of 2019, the total costs incurred for application fees was \$150. Based upon this information, the Board anticipates a maximum of 4 license by endorsement applications per year, which will result in approximate costs in the amount of \$100-\$1,510 annually, depending on which method of establishing competency is chosen by the applicant. The Board anticipates that half of the applicants will establish competency at no cost with experience. The Board also estimates that one of the 4 applicants would take the exam with a cost of \$1,060 and the remaining applicant would satisfy competency requirement through CE at cost of \$450.

The Board does not anticipate receiving any foreign applications. As stated above, in response to Question #17, for foreign applicants, if the other law, regulation or other rule is in a language other than English, § 23.27a(a)(1)(ii) would require the applicant to have it professionally translated at the applicant's expense. The Board anticipates that the translation costs will be approximately \$25 per page and range between two and five pages in length. Since the enactment of Act 41, the Board has not received any foreign applications.

(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.

The regulation would not result in costs or savings to local governments.

(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 Board incurred increased operational costs to implement the license by endorsement applications. The costs incurred by the Board are recouped in the form of application fees paid by the applicants.

(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 should be no legal, accounting or consulting procedures associated with this rulemaking. Like all other applicants under the Board, affected individuals will be required to submit an application for license accompanied by required documentation.

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

Yes, applicants are required to submit an online application, which is done through the filing an application through the Pennsylvania Licensing System (PALS). With that application the applicant must submit the \$25 application fee.

(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.

The Bureau uses an online platform for the submission of applications for licensure through PALS, which also encompasses applications for licensure by endorsement under 63 Pa.C.S. § 3111. Currently, the State Board of Optometry has not yet developed an application specifically for those applying for licensure through 63 Pa.C.S. § 3111. Applicants are asked to submit an application through the online platform for licensure via reciprocity and this information is then manually reviewed Board counsel and the Board. Within the online platform, applicants are asked a series of questions. Applicants are asked if they are currently licensed in another jurisdiction and the type of license for which they are applying. Applicants currently licensed in another jurisdiction, which is defined in the proposed rulemaking as another state, territory or country, are instructed to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, translated into English if needed. Applicants are required to indicate whether they have been disciplined by the jurisdiction in which they are licensed. Applicants with disciplinary history must upload appropriate documentation related to the discipline. Applicants must certify completion of training in child abuse recognition and reporting and provide a recent Criminal History Records Check (CHRC) from the state police or other state agency or other appropriate agency of a territory or country that is the official repository for criminal history record information for every state in which they have lived, worked, or completed professional training/studies for the past five (5) years. Based upon the above, applications are forwarded to Board counsel, and to the Board, to determine eligibility under 63 Pa. C.S. § 3111. The Bureau is working towards creating a more detailed electronic application process specific to license by endorsement under 63 Pa. C.S. § 3111, which will decrease the need for manual review of applications. The Board attaches a paper application which will be the basis for developing the electronic license by endorsement application. (See Attachment B.)

(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 22-23	FY +1 23-24	FY +2 24-25	FY +3 25-26	FY +4 27-28	FY +5 29-30
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A

COSTS:						
Regulated Community	\$100-1,610	\$100-1,610	\$100-1,610	\$100-1,610	\$100-1,610	\$100-1,610
Local Government						
State Government						
Total Costs	\$100-1,610	\$100-1,610	\$100-1,610	\$100-1,610	\$100-1,610	\$100-1,610
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

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

Program	FY -3 2019-2020 (actual)	FY -2 2020-2021 (actual)	FY -1 2021-2022 (estimated)	Current FY 2022-2023 (budgeted)
Optometry	\$227,000	\$234,000	\$194,000	\$241,000

(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.
- (a) This rulemaking will not have an adverse impact on small businesses unless small businesses voluntarily pay application fees or other costs relating to establishing competency. Because these fees are incurred by individuals applying for initial licensure, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs.
- (b) This rulemaking will not impose additional reporting, recordkeeping or other administrative costs on small businesses.
- (c) The probable effect on impacted small businesses would be positive because 63 Pa.C.S. § 3111 and the Board's regulations will encourage skilled workers and their families to move to Pennsylvania, which will enhance the workforce, provide more talent for businesses, and help grow Pennsylvania's economy.

(d) The Board could discern no less costly or less intrusive alternative methods to effectuate the purpose of 63 Pa.C.S. § 3111 that would be consistent with the Board's mandate to produce enough revenue to cover its costs of operations and to administer the act in the public interest. Regarding costs relating to establishing competency, it is likely that additional costs will not be incurred by the regulated community as applicants who have practiced for two out of the last five years or who have already completed sufficient continuing education will not incur costs relating to competency.

(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.

No special provisions have been developed for any affected groups or persons.

(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 were considered and rejected. The Board believes this proposal represents the least burdensome acceptable alternative.

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

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
 - b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
 - c) The consolidation or simplification of compliance or reporting requirements for small businesses;
 - d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
 - e) The exemption of small businesses from all or any part of the requirements contained in the regulation.
- a) & b) The Board did not consider less stringent reporting requirements or deadlines for small businesses or for applicants that intend to work for small businesses. All applicants for licensure are treated equally.
- c) There are no compliance or reporting requirements that could be consolidated or simplified. The application process is the same whether a particular licensee is employed by a small business or a large business.
- d) The regulations do not contain design or operational standards that need to be altered for small businesses.
- e) To exclude any applicant from the requirements contained in the regulation based on the size of their employers would not be consistent with 63 Pa.C.S. § 3111.

(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, studies or references were used to justify the regulation.

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

- A. The length of the public comment period: 30 days.
- B. The date or dates on which any public meetings or hearings will be held:

No public hearings were scheduled or held. The Board discusses its regulatory proposals at regularly scheduled meetings. This rulemaking was discussed at a public board meeting on August 20, 2020, and May 13, 2021, May 19, 2022, and December 1, 2022.
- C. The expected date of the final-form regulation: Spring 2023
- D. The expected effective date of the final-form regulation: Spring 2023
- E. The expected date by which compliance with the final-form regulation will be required: Upon publication as final.
- 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 dates in 2023: May 11, August 24, and December 7. More information can be found on the Board website (www.dos.pa.gov/optometry).

ATTACHMENT A

STATE BOARD OF OPTOMETRY

PA Academy of Ophthalmology	<u>pao@pamedsoc.org</u>
PA Assn. of Medical Staff Services Marianne Sell, CPMSM	<u>msell@gsrh.org</u>
Pennsylvania College of Optometry Lisa Lonie, Exec. Sec.	<u>Lisa@salus.edu</u>
Optometry School Dr. Linda Casser, Dean	<u>LCasser@salus.edu</u>
Pennsylvania Medical Society Amy Green, Reg. Monitoring	<u>agreen@pamedsoc.org</u>
Pennsylvania Optometric Assoc.	<u>mail@poaeyes.org</u>
POA, Charles Stuckey, Exec. Dir.	<u>charlie@poaeyes.org</u>
National Vision Charles Mingle	<u>charles.mingle@nationalvision.com</u>
Post & Schell, P.C. Denise Huber	<u>dhuber@postschell.com</u>
University of Pikeville Gregory Moore	<u>gregorymoore@upike.edu</u>
Post & Schell, P.C. James Kutz	<u>jkutz@postschell.com</u>
Suddenlink Communications James Campbell	<u>idok@suddenlink.net</u>
Michael Mittelman	<u>mmittelman@salus.edu</u>
POA, Joseph Ricci	<u>joe@poaeyes.org</u>
Wanner Associate Ted Mowatt	<u>ted@wannerassoc.com</u>
Walmart Tice White	<u>tice.white@wal-mart.com</u>
ARBO, Lisa Fennel	<u>arbo@arbo.org</u>

ATTACHMENT B

STATE BOARD OF OPTOMETRY
P.O. Box 2649
Harrisburg, PA 17105-2649

Telephone: (717) 783-7155
Fax: (717) 787-7769
Website: www.dos.pa.gov/opt
E-Mail: st-optometry@pa.gov

Courier Address:
2601 North Third Street
Harrisburg, PA 17110

APPLICATION FOR LICENSURE BY ENDORSEMENT UNDER 63 PA.C.S. § 3111

PLEASE NOTE: If a pending application is older than one year from the date submitted and the applicant wishes to continue the application process, the Pennsylvania State Board of Optometry (Board) shall require the applicant to submit a new application including the required fee.

In order to complete the application process, many of the supporting documents associated with the application cannot be more than six months from the date of issuance. All background check documents cannot be older than 90 days from the date of issuance.

1. REQUIREMENTS

- A. Hold a current license, certificate, registration or permit to practice optometry in good standing and to practice optometry in a jurisdiction whose standards are substantially equivalent to or exceed those of the Board.
- B. Demonstrates competency by one of the following:
 - Experience in the practice of optometry by demonstrating, at a minimum, that the applicant has actively engaged in the practice of optometry in the jurisdiction that issued the license, certificate, registration or permit for at least 2 of the last 5 years immediately preceding the filing of the application with the Board.
 - Completion of 30 continuing education hours that meet the requirements of section 4.1 of the act (63 P. S. § 244.4), regarding continuing professional competency requirements during the 24 months immediately preceding the date of the application.
 - Successfully passing a board-approved skills exam by taking the National Board of Examiners in Optometry (NBEO) clinical skills exam.
- C. Has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certification, registration or permit to practice optometry under the Optometry Practice Act (Act) (63 P.S. § 244.7) or (49 Pa. Code §§ 23.61-23.65) and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.
- D. Has paid the application fee of \$25.00 for certification, licensure or registration.
- E. Provides a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license. The copy of the applicable law, regulation or other rule must include the enactment date. If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

2. APPLICATION CHECKLIST

Persons licensed in other jurisdictions who possess a current license, license, certificate or permit in good standing:

- Complete pages 1, 2 and 3 of the application.
If any documentation submitted in connection with this application will be received in a name other than the name under which you are applying, you must submit a copy of the legal document(s) indicating the name change (i.e., marriage certificate, divorce decree which indicates the retaking of your maiden name; legal document indicating the retaking of a maiden name, or court order).
- \$25.00 Application Fee – Check or money order made payable to the Commonwealth of Pennsylvania. Fees are not refundable or transferable. A processing fee of \$20.00 will be charged for any check or money order returned unpaid by your bank, regardless of the reason for non-payment.

- Have the out-of-state licensing authorities in which you hold or have held a license to practice optometry submit a letter of good standing directly to the Pennsylvania State Board of Optometry with a state seal affixed to the letter.
- A Criminal Background Check from every state in which you have lived, worked or completed professional training/studies for the past five (5) years must be submitted. The criminal background check must be completed within 90 days of submission of this application to the Board. Pennsylvania background checks may be obtained at <https://epatch.state.pa.us> or from the Pennsylvania State Police Central Repository, 1800 Elmerton Ave., Harrisburg, PA 17110-9758, (717) 783-5593.
(If you reside outside of Pennsylvania, you must contact the State Police from your jurisdiction.)
- The Bureau of Professional and Occupational Affairs (BPOA), in conjunction with the Department of Human Services (DHS), is providing notice to all health-related licensees and funeral directors that are considered "mandatory reporters" under section 6311 of the Child Protective Services Law (CPSL) (23 P.S. § 6311), as amended, that EFFECTIVE JANUARY 1, 2015, all persons applying for issuance of an initial license shall be required to complete 3 hours of DHS-approved training in child abuse recognition and reporting requirements as a condition of licensure. Please review the Board website for further information on approved CE providers. Once you have completed a course, the approved provider will electronically submit your name, date of attendance, etc., to the Board. [Child Abuse Continuing Education Providers Information can be found here.](#)
 - Provide a Self-Query from the National Practitioner Data Bank completed within 90 days of submission of this application to the Board. A Self-Query can be requested online at www.npdb.hrsa.gov. When you receive the "Self-Query Response" from the National Practitioner Data Bank, forward it to the Board office. (Verify that "Self-Query Response" is sent to the Board and not a discrepancy notice.)**

3. INFORMATION

- A. Any change in disciplinary status or criminal history after the submission of the application must be reported to the Board in writing.

STATE BOARD OF Optometry EDUCATION AND LICENSURE

Mailing Address:
P.O. Box 2649
Harrisburg, PA 17105-2649
Telephone: (717) 783-7155
E-Mail: st-optometry@pa.gov

Courier Address (if using a mailing service that requires a street address):
2601 North Third Street
Harrisburg, PA 17110
Fax: (717) 787-7769

APPLICATION FOR LICENSURE BY ENDORSEMENT UNDER 63 PA.C.S. § 3111

INITIAL APPLICATION FEE: \$25.00 PAYABLE TO THE COMMONWEALTH OF PENNSYLVANIA. FEES ARE NOT REFUNDABLE OR TRANSFERABLE. A PROCESSING FEE OF \$20.00 WILL BE CHARGED FOR ANY CHECK OR MONEY ORDER RETURNED UNPAID BY YOUR BANK, REGARDLESS OF THE REASON FOR NON-PAYMENT.

1. Name _____ (Last) (First) (Middle)
2. Will any documentation submitted in connection with this application be received in a name other than the name under which you are applying? YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, please provide the other name or names: _____
3. Address _____ (Street) _____ (City) (State) (Zip Code) <i>The address you provide is the address that will be associated with this application to which all correspondence will be mailed. Please note that licenses are not forwardable.</i>
4. Telephone _____ Fax _____
5. E-Mail Address _____
6. Date of Birth _____ Social Security Number: _____
7. Select the license for which you are applying: <input type="checkbox"/> Optometrist <input type="checkbox"/> Certification to prescribe and administer pharmaceutical agents for therapeutic purposes <input type="checkbox"/> Certification to treat glaucoma
8. Competency Requirement <u>Experience:</u> Have you actively engaged in the practice of <input type="checkbox"/> Optometrist <input type="checkbox"/> Certification to prescribe and administer pharmaceutical agents for therapeutic purposes <input type="checkbox"/> Certification to treat glaucoma in the jurisdiction that issued the license, certificate,

registration or permit for at least 2 of the last 5 years immediately preceding the filing of this application?

Provide a curriculum vitae demonstrating this experience.

Continuing education:

Have you completed 30 continuing education hours that meet the requirements of the act (63 P.S. § 244.4 and/or 49 Pa. Code § 23.82) during the 24 months immediately preceding the date of this application? Completion of 3 hours of child abuse recognition and reporting training may be attributed to the 30 hours of continuing education.

Yes

No

If you responded "Yes", submit proof of completion of professional development hours.

Exam:

Have you taken and passed the National Board of Examiners in Optometry (NBEO) clinical skills exam or an equivalent within 2 years immediately preceding the date of the application?

Yes

No

If you responded "Yes", contact NBEO or its equivalent to request that your score be sent to the State Board of Optometry resource account so that it can be added to your application.

9. Name of state where initial license to practice optometry was issued.

Date initial license was issued _____.

List any other state, territory or country where you hold or have held a license/certificate to practice optometry.

Have the licensing authority listed above submit a letter of good standing (verification of licensure) directly to the Board with state seal affixed to the letter. Provide a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license.

		YES	NO
10.	<p>Do you hold, or have you ever held, a license, certificate, permit, registration or other authorization to practice any other profession in any state or jurisdiction?</p> <p>If you answered YES to the above question, please provide the profession and state or jurisdiction. Please do not abbreviate the profession.</p> <p>_____</p> <p>_____</p> <p>The Board must receive verification of any license, certificate, permit, registration or other authorization to practice any other profession directly from the state or jurisdiction. <i>PLEASE NOTE: The Board does NOT need to receive verification for licenses issued by one of the licensing boards within the Pennsylvania Bureau of Professional and Occupational Affairs.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>If you answer YES to any of the following questions, provide complete details as well as copies of relevant documents to the Board office.</p>		YES	NO

11.	Have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline?	<input type="checkbox"/>	<input type="checkbox"/>
12.	Do you currently have any disciplinary charges pending against your professional or occupational license, certificate, permit or registration in any state or jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
13.	Have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
14.	Do you currently have any criminal charges pending and unresolved in any state or jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>
15.	Do you currently engage in or have you ever engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination?		
16.	Have you ever had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority?		
17.	Have you ever had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility?		
18.	Have you ever been charged by a hospital, university, or research facility with violating research protocols, falsifying research, or engaging in other research misconduct?		

NOTICE: Disclosing your Social Security Number on this application is mandatory in order for the State Boards to comply with the requirements of the Federal Social Security Act pertaining to Child Support Enforcement, as implemented in the Commonwealth of Pennsylvania at 23 Pa.C.S. § 4304.1(a). At the request of the Department of Human Services (DHS), the licensing boards must provide to DHS information prescribed by DHS about the licensee, including the social security number.

Applicant's Statement:

I verify that this application is in the original format as supplied by the Department of State and has not been altered or otherwise modified in any way. I am aware of the criminal penalties for tampering with public records or information under 18 Pa.C.S. § 4911.

I verify that the statements in this application are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation or denial of my license, certificate, permit or registration.

Applicant's Signature

Date

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

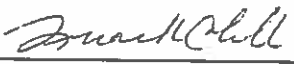

(Pursuant to Commonwealth Documents Law)

RECEIVED

MAY 22 2023

Independent Regulatory
Review Commission

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS AND THE STATE BOARD OF OPTOMETRY</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16A-5218</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u></u> Luanne K. Chubb, F.A.A.O.</p> <p>TITLE <u>Chairperson</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u></u> (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p>_____ May 10, 2023 DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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FINAL RULEMAKING

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF OPTOMETRY**

49 PA. CODE CHAPTER 23, §§ 23.27, 23.27a and 23.27b

(License by Endorsement under 63 Pa. C.S. § 3111)

The State Board of Optometry (Board) hereby amends Chapter 23 of Title 49 of the Pennsylvania Code by adding §§ 23.27, 23.27a and 23.27b (relating to definitions; license by endorsement under 63 Pa. C.S. § 3111; and provisional endorsement license) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires licensing boards and commissions to issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth provided the applicant meets the following criteria: holds a current license, certificate, registration or permit from another state, territory or country whose licensing requirements are substantially equivalent to or exceed the requirements in this Commonwealth; demonstrates competency; has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the board or commission determines such conduct is not an impediment to granting the license, certificate, registration or permit; and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to issue a provisional license, certificate, registration or permit while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. Additionally, section 3(b)(14) of the Optometric Practice and Licensure Act (act) (63 P.S. § 244.3(b)(14)) provides the Board with authority to promulgate all rules and regulations necessary to carry out the purposes of the act.

The act of July 1, 2020, (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) (Act 48) into 63 Pa.C.S. Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41) (Act 41).

Background and Need for the Amendments

This final-form rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license, certificate, registration or permit to applicants who meet the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111. Under 63 Pa.C.S. § 3111, the Board must determine whether the jurisdiction's standards for licensure are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding

the filing of the application, and must establish, by regulation, the expiration of a provisional endorsement license. This final-form rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

The Board published a notice of proposed rulemaking at 51 Pa.B. 6046 (September 18, 2021), for thirty days of public comment. The Board did not receive any comments from the public. The House Professional Licensure Committee (HPLC) submitted comments. As part of its review under the Regulatory Review Act, the Independent Regulatory Review Commission (IRRC) submitted comments. The Board received no comments from the Senate Consumer Protections and Licensure Committee (SCP/PLC). The following represents a summary of the comments received and the Board's response.

Summary of the HPLC comments and the Board's response

The HPLC commented on § 23.27a(a)(1)(i) (regarding license by endorsement) which requires the applicant to provide a copy of the current law and regulations, including the scope of practice, in the jurisdiction where the applicant holds an active license. The HPLC expressed a concern that this is not a specific statutory requirement and suggested it should be Board Counsel's responsibility to research the laws and regulations of the jurisdiction from which the applicant is applying. For the following reasons the Board disagrees and has not amended § 23.27a(a)(1)(i) in the final-form regulation; 1) to date the Board has received only six applications and the applicants have been able to provide the Board with the necessary laws and regulations quickly and easily; 2) it is the applicant's burden to prove to the Board that qualifications for licensure are met; and 3) putting this burden on the Board and its legal counsel unnecessarily puts a financial burden on the Board and to its licensees that finance the Board through biennial renewal fees, or if this cost is applied to application fees, then the cost to apply for a license would have to be increased. Applicants generally have access to the laws and regulations of the jurisdiction where they are licensed. It is of particular concern when an applicant is licensed in another country. This type of research is overly burdensome and could be costly to the Board. While the Board will take steps to verify the laws and regulations of another jurisdiction, having the applicant provide that initial information is the most expedient and fiscally prudent approach.

The HPLC next commented on § 23.27a(a)(4) which on proposed stated that the applicant could not have been disciplined by the jurisdiction that issued the license, certificate, registration or permit. The HPLC suggested clarifying this paragraph by specifying the type of discipline and providing a timeframe. The HPLC suggested that the Board distinguish between formal discipline and a complaint. The Board does not think it is necessary to make this type of distinction. A complaint is not considered to be formal or informal discipline. Additionally, the Board does not believe it is appropriate to predetermine the type of discipline or the timeframe discipline occurred. The Board, instead, believes it is appropriate to evaluate discipline on a case-by-case basis. As indicated in § 23.27a(c), the Board is authorized to determine that discipline is not an impediment to licensure under 63 Pa.C.S. § 3111. In determining whether the discipline is an impediment to licensure, it is dutybound to apply the caselaw and other applicable laws. *See, Secretary of*

Revenue v. John's Vending Corp., 453 Pa. 488, 309 A.2d 358 (1973); *Bethea-Tumani v. Bureau of Professional and Occupational Affairs, State Board of Nursing*, 993 A.2d 921 (Pa. Cmwlth. 2010). A part of that analysis the Board may consider the facts and circumstances surrounding the prohibited act or disciplinary action, increase in age or maturity of the individual since the date of the prohibited act or disciplinary action, disciplinary history or lack of disciplinary history before and after the date of the prohibited act or disciplinary action, successful completion of education and training activities relating to the prohibited act or disciplinary action and any other information relating to the fitness of the individual for licensure. To be consistent with the language in § 23.27a(a)(3) and (4), the Board added the word “discipline” to the title of the § 23.27a(c).

The HPLC also commented on § 23.27b(b)(1) (regarding provisional endorsement license) noting that this provision would allow the Board to issue a provisional license for less than a year and asked why the Board would need to do so. 63 Pa.C.S. § 3111(b)(2) requires the Board to establish an expiration date for provisional licenses in its regulations. The Board, along with most other boards and commissions under the Bureau of Professional and Occupational Affairs (Bureau) have determined that expiration of one year is generally an appropriate timeframe for most applicants. However, in the interest of public safety, the Board has determined that providing some discretion to the Board is necessary for instances where the remaining licensure requirements do not require a full year to complete the remaining licensure requirements. It is in the public interest to ensure that a licensee becomes qualified or competent as expeditiously as possible. While the Board certainly will provide a full year when the facts warrant it, it wants its licensees to be qualified and competent as soon as practicable. An example would be where an applicant from another jurisdiction only needs to complete 10 more continuing education credits. To allow twelve months to establish competency when competency could be accomplished in a shorter term would not be in the best interest of public safety. This is because the Board believes it is best for applicants to meet the competency requirements within a reasonable time period that is tied to the length of time necessary to meet the specific competency requirement.

The HPLC also commented on subsection (c), noting that the Board did not include the expiration date as a means by which the provisional endorsement license may terminate. The Board agrees with the HPLC and has included the expiration date as means by which the provisional endorsement license may terminate. To clarify this subsection, the Board also included the granting of a license as a means by which the provisional endorsement license would also terminate. Additionally, the Board made non-substantive amendments to subsection (c) to improve clarity and readability.

The HPLC commented that § 23.27b(d) is unintentionally vague and asked the Board to allow applicants to reapply for multiple provisional licenses. The Board does not believe it is necessary or appropriate to allow multiple provisional licenses. A provisional license is an unrestricted license that is issued to an applicant in an effort to provide a short period of time (of up to 1 year) to satisfy remaining licensing requirements. While the Board is reluctant to issue an unrestricted license to an applicant who has not met the licensure standards or who has not proven competency, the General Assembly gave boards the discretion to do so as long as there was an

expiration to that provisional license. Thus, the provisional license is meant to be a temporary license, on a short-term basis, to allow an applicant to begin practicing while completing remaining licensing requirements. The Board's regulations do allow for requests for an extension up to 1 additional year; the Board believes this timeframe is more than sufficient. The Board is concerned that allowing for multiple provisional licenses could be used as a mechanism to circumvent licensure standards. An applicant may certainly apply for an optometric license through § 23.27a after a provisional license expires; however, if the applicant does not meet the licensure standards after having a provisional license and having the option to apply for an extension, the applicant is would not be eligible to apply for or receive an additional provisional license.

Summary of IRRC's comments and the Board's response

IRRC, in its comment, identified the above HPLC comments. IRRC indicated that it will consider the HPLC comments and the Board's response to the issues raised in determining whether the regulation is in the public interest. The reasons provided above, in response to the HPLC comments, show that that the regulation is in the public interest.

IRRC commented regarding the Regulatory Analysis Form (RAF) Question 19 and the cost to the regulated community for translation. The final-form rulemaking has been amended to include a specific estimate of costs to the regulated community for translation of an applicable law, regulation or rule.

IRRC requested that the RAF be updated to include a list of specific persons and/or groups involved in developing and drafting the proposal. The Board has attached a list of stakeholders to the final-form RAF.

Additionally, IRRC asked the Board to provide an updated RAF that includes an estimate of the costs that would be associated with having the regulation or rule be translated by a professional service. The Board has updated the RAF to include an estimate of these costs.

Finally, IRRC requested that the title of Chapter 23 be amended to reflect the proposed content pertaining to licensure by endorsement. The undesignated header "License by Endorsement under 63 Pa.C.S. § 6111" was added as suggested by IRRC.

Miscellaneous Clarifications

Twenty-seven Boards under the Bureau are drafting and publishing licensure by endorsement regulations. In an effort to keep language in the regulations as consistent as possible, the Board is amending the regulations based upon comments during the review process of other regulations. The following amendments are stylistic and do not have a substantive impact on the regulations.

Under § 23.27a(a)(2)(i) of the proposed rulemaking, to demonstrate competency by experience, the proposed regulations require active engagement in the practice of optometry for at least 2 of the 5 years immediately preceding the filing of the application with the Board. In drafting the proposed regulation, the Board assumed that the applicable experience would have been

obtained in the jurisdiction under which the applicant was applying for licensure, and for which the Board would have determined that jurisdiction's licensure standards were substantially equivalent to the Board's licensure standards. To be more inclusive, the Board amends § 23.27a(a)(2)(i) to clarify that experience must be obtained under a license, certificate, registration or permit in a jurisdiction or jurisdictions that have substantially equivalent licensure standards. Thus, the amendment makes clear that the Board will consider experience accumulated in more than one jurisdiction when calculating the required experience provided that those jurisdictions have substantially equivalent licensure standards.

The Board amends § 23.27a(a)(2)(ii) to clarify that completion of child abuse recognition and reporting training required under paragraph (7) may be attributed to the 30 hours of continuing education required to demonstrate competency. The Board currently allows continuing education in child abuse recognition and reporting to be attributed to the 30 hours of continuing education required for biennial renewal. Thus, to maintain consistency, the Board decided to allow the child abuse recognition and reporting training to be attributed to the 30 hours of continuing education required under § 23.27a(a)(2)(ii).

The Board made minor amendments to § 23.27a(a), 23.27a(a)(5)-(7) and § 23.27a(d) for stylistic consistency. The revisions do not substantively change the meaning of the provisions. The Board also amended § 23.27a(b) to clarify that the Board may require, instead of request, submission of additional information. In § 23.27a(c), to improve clarity, the Board added the term "discipline" to the heading to clarify that subsection (c) applies to prohibited acts and discipline. The Board also replaced the term "licensure" with "license" in § 23.27b(d) for consistency.

Fiscal Impact and Paperwork Requirements

This final-form rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions. Only minor paperwork requirements are imposed for the Board to develop a form for applying for license by endorsement.

Sunset Date

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

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 2, 2021, the Board submitted a copy of the notice of proposed rulemaking, published at 51 Pa.B. 6046 (September 18, 2021) and a copy of a Regulatory Analysis form to IRRC and to HPLC and the SCP/PLC for review and comment. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Board shall submit to IRRC, the HPLC and the SCP/PLC copies of comments received as well as other

documents when requested. In preparing the final-form regulation, the Board considered comments received from IRRC and HPLC. No public comments were received. The Board received no comments from the SCP/PLC.

Under section 5.1(a) of the Regulatory Review Act, (71 P.S. § 745.5a(a), on May 22, 2023, 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 (71 P.S. § 745.5a(j.2)), on 2023, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on ,2023, and approved the final-form rulemaking.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law.
- (3) This final-form rulemaking does not include any amendments that would enlarge the scope of proposed rulemaking published at 51 Pa.B. 6046 (September 18, 2021).
- (4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of 63 Pa.C.S. § 3111 and the Optometric Practice and Licensure Act.

Order

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

- (a) The regulations of the Board at 49 Pa. Code §§ 23.27, 23.27a, and 23.27b are amended to read as set forth in Annex A.
- (b) The Board shall submit this 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 this final-form regulation to IRRC, the HPLC and the SCP/PLC as required by law.
- (d) The Board shall certify this final-form regulation and deposit them with the Legislative Reference Bureau as required by law.
- (e) The final-form rulemaking shall take effect upon publication in the Pennsylvania Bulletin.

LUANNE CHUBB, OD,
Chairperson

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS PART I.

DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 23. STATE BOARD OF OPTOMETRY

* * * * *

~~LICENSE BY RECIPROCITY AND INTERSTATE CERTIFICATION~~

LICENSE BY ENDORSEMENT UNDER 63 PA.C.S. § 3111

§ 23.27. Definitions.

The following word or term, when used in § 23.27a (relating to license by endorsement) has the following meaning, unless the context clearly indicates otherwise:

Jurisdiction—A state, territory or country.

§ 23.27a. License by endorsement UNDER 63 PA.C.S. § 3111.

(a) Requirements for issuance. To be issued a license by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement), an applicant ~~must~~ SHALL satisfy all of the following conditions:

(1) Have a current license, certification, registration or permit in good standing to practice optometry in another jurisdiction whose standards are substantially equivalent to or exceed those established under section 4 of the act (63 P.S. §§ 244.4) and §§ 23.11— 23.15, 23.202 and 23.205. The following apply:

(i) An applicant must submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit.

(ii) If the applicable law, regulation or other rule is in a language other than English, at the applicant's expense, the applicable law, regulation or other rule shall be translated by a professional translation service and verified to be complete and accurate.

(iii) The copy of the applicable law, regulation or other rule must include the enactment date.

(2) Demonstrate competency by one of the following:

(i) Experience in the practice of optometry by demonstrating, at a minimum, that the applicant has actively engaged in the practice of optometry in the jurisdiction that issued the license, certificate, registration or permit UNDER A LICENSE, CERTIFICATE, REGISTRATION OR PERMIT IN A JURISDICTION OR JURISDICTIONS THAT HAVE SUBSTANTIALLY EQUIVALENT LICENSURE STANDARDS for at least 2 of the 5 years immediately preceding the filing of the application with the Board.

(ii) Completion of 30 hours of continuing education that meets the requirements of §§ 23.82 and 23.83 (relating to continuing education hour requirements; continuing education reporting; audit and enforcement; and continuing education subject matter) during the 24 months immediately preceding the date of the application. COMPLETION OF CHILD ABUSE RECOGNITION AND REPORTING TRAINING UNDER PARAGRAPH (7) MAY BE ATTRIBUTED TO THE 30 HOURS OF CONTINUING EDUCATION.

(iii) Achieve a passing score on the NBEO Clinical Skills Assessment Examination or its equivalent, as determined by the Board, within 2 years immediately preceding the date of the application.

(3) Have not committed any act prohibited by section 7 of the act (63 P.S. § 244.7) or §§ 23.61—23.65 (relating to unlawful practices).

(4) Have not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.

(5) ~~Pay~~ HAVE PAID the license application fee as required by § 23.91 (relating to fees).

(6) ~~Apply~~ HAVE APPLIED for licensure in accordance with this chapter in the manner and format prescribed by the Board.

(7) ~~Complete~~ HAVE COMPLETED 3 hours of training in child abuse recognition and reporting from a provider approved by the Department of Human Services as required under 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training).

(b) Interview and additional information. An applicant may be required to appear before the Board for a personal interview and may be ~~requested~~ REQUIRED to submit additional information, including supporting documentation relating to competency and experience. The applicant may request the interview to be conducted by video teleconference for good cause shown.

(c) Prohibited acts AND DISCIPLINE. Notwithstanding subsection (a)(3) and (4), the Board may, in its discretion, determine that an act prohibited under section 7 of the act or §§ 23.61—23.65, or disciplinary action by a jurisdiction is not an impediment to licensure under 63 Pa.C.S. § 3111.

§ 23.27b. Provisional endorsement license.

(a) Provisional endorsement license. The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 23.27a (relating to license by endorsement).

(b) Expiration of a provisional endorsement license.

(1) An individual holding a provisional endorsement license may practice for up to 1 year after issuance of the provisional endorsement license. The Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon a written request and a showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) Termination of a provisional endorsement license. A provisional endorsement license terminates upon either of the following IF ANY OF THE FOLLOWING OCCURS:

(1) ~~The Board denies the license.~~ WHEN THE BOARD COMPLETES ITS ASSESSMENT OF THE APPLICANT AND GRANTS OR DENIES THE LICENSE.

(2) ~~The license holder fails to comply with the terms of the provisional endorsement license.~~ WHEN THE HOLDER OF THE PROVISIONAL LICENSE FAILS TO COMPLY WITH THE TERMS OF THE PROVISIONAL ENDORSEMENT LICENSE.

(3) WHEN THE PROVISIONAL ENDORSEMENT LICENSE EXPIRES.

(d) Reapplication. An individual may reapply for licensure LICENSE by endorsement under § 23.27a after expiration or termination of a provisional endorsement license, but the individual

~~may not~~ **CANNOT** be issued a subsequent provisional endorsement license.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF OPTOMETRY

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7155

May 15, 2023

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

Re: Final Regulation
State Board of Optometry
16A-5218: Licensure By Endorsement

Dear Chairman Bedwick:

Enclosed is a copy of a final rulemaking package of the State Board of Optometry pertaining to 16A-5218: Licensure By Endorsement.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Luanne Chubb".

Luanne Chubb, OD, Chairperson
State Board of Optometry

LC:sjj

Enclosure

cc: Arion Claggett, Acting Commissioner of Professional and Occupational Affairs
K. Kalonji Johnson, Deputy Secretary for Regulatory Programs
Andrew LaFratte, Executive Policy Specialist, Department of State
Cynthia Montgomery, Deputy Chief Counsel, Department of State
Jacqueline A. Wolfgang, Regulatory Unit Counsel, Department of State
Shawn J. Jayman, Counsel, State Board of Optometry
State Board of Optometry

Solomon, Douglas

From: Smeltz, Jennifer <jmsmeltz@pasen.gov>
Sent: Monday, May 22, 2023 11:37 AM
To: Solomon, Douglas
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

Received.

Jen Smeltz
Executive Director
Office of Senator Pat Stefano
Consumer Protection and Professional Licensure Committee
Phone: (717) 787-7175

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MAY 22 2023

Independent Regulatory
Review Commission

From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, May 22, 2023 8:20 AM
To: Smeltz, Jennifer <jmsmeltz@pasen.gov>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Importance: High

© CAUTION : External Email ©

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

Please be advised that the Occupational Therapy, Optometry Boards and Medical Boards are delivering the below final rulemakings.

Thank you for your attention to this matter.

➤ **16A-6713– Occupational Therapy – Licensure by Endorsement**

Final rulemaking of the State Board of Occupational Therapy Education and Licensure relating to Licensure by Endorsement - This final rulemaking is needed to effectuate 63 Pa.C.S. § 3111 (relating to licensure by endorsement) for applicants licensed in other jurisdictions where the licensure requirements are substantially equivalent or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of demonstrating competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

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proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

➤ **16A-4956 – Medical Board – Acupuncturists and Practitioners of Oriental Medicine**

This final rulemaking updates the Board's regulations as it pertains acupuncturists and practitioners of Oriental medicine. The rulemaking makes the following changes: (1) removes outdated terminology, (2) removes outdated licensure provisions, (3) conforms the regulations to Act 134 of 2014 (Acupuncture Licensure Act), (4) restructures requirements relating to practice responsibilities of acupuncturists and practitioners of Oriental medicine who are not a medical doctors based on the type of license held, (5) expands the list of opportunities to demonstrate English language proficiency, (6) renames the subchapter to reflect the fact that since 2008, acupuncturists are licensed (not registered) and (6) imposes a new requirement that acupuncturists obtain and maintain professional liability insurance of at least \$1 million per occurrence or claims made.

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MAY 22 2023

Independent Regulatory
Review Commission

Doug P. Solomon | Legal Assistant
Office of Chief Counsel | Department of State
Governor's Office of General Counsel
P.O. Box 69523 | Harrisburg, PA 17106-9523
Office Phone 717.783.7200 | Fax 717.787.0251
dousolomon@pa.gov | www.dos.pa.gov

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Solomon, Douglas

From: Orchard, Kari L. <KOrchard@pahouse.net>
Sent: Monday, May 22, 2023 11:09 AM
To: Solomon, Douglas; Barton, Jamie; Brett, Joseph D.
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

RECEIVED

Received. Thank you!

MAY 22 2023

Kari Orchard
Executive Director (D) | House Professional Licensure Committee
Chairman Frank Burns, 72nd Legislative District

Independent Regulatory
Review Commission

From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, May 22, 2023 8:37 AM
To: Orchard, Kari L. <KOrchard@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>; Brett, Joseph D. <JBrett@pahouse.net>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Importance: High

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Doug P. Solomon | Legal Assistant
Office of Chief Counsel | Department of State
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Office Phone 717.783.7200 | Fax 717.787.0251
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Solomon, Douglas

From: Nicole Sidle <Nsidle@pahousegop.com>
Sent: Monday, May 22, 2023 10:58 AM
To: Solomon, Douglas; Francesca Summa
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

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Good Morning Doug—

These have been received.

Nicole

MAY 22 2023

Independent Regulatory
Review Commission

From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, May 22, 2023 8:42 AM
To: Nicole Sidle <Nsidle@pahousegop.com>; Francesca Summa <Fsumma@pahousegop.com>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Importance: High

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Office of Chief Counsel | Department of State
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Solomon, Douglas

From: Rolko, Seth <Seth.Rolko@pasenate.com>
Sent: Monday, May 22, 2023 10:01 AM
To: Solomon, Douglas
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

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Received. Thanks.

MAY 22 2023

From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, May 22, 2023 8:27 AM
To: Rolko, Seth <seth.rolko@pasenate.com>; Vazquez, Enid <enid.vazquez@pasenate.com>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Importance: High

Independent Regulatory
Review Commission

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Doug P. Solomon | Legal Assistant
Office of Chief Counsel | Department of State
Governor's Office of General Counsel
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Review Commission

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Solomon, Douglas

From: Vazquez, Enid <Enid.Vazquez@pasenate.com>
Sent: Monday, May 22, 2023 10:30 AM
To: Solomon, Douglas; Rolko, Seth
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

Received.

Thanks,

Enid Vazquez
State Senator Lisa M. Boscola
One E. Broad Street – Suite 120
Bethlehem, PA 18018
O: 610-868-8667
F: 610-861-2184
www.senatorboscola.com

RECEIVED

MAY 22 2023

Independent Regulatory
Review Commission

From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, May 22, 2023 8:27 AM
To: Rolko, Seth <seth.rolko@pasenate.com>; Vazquez, Enid <enid.vazquez@pasenate.com>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Importance: High

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

Please be advised that the Occupational Therapy, Optometry Boards and Medical Boards are delivering the below final rulemakings.

Thank you for your attention to this matter.

- **16A-6713– Occupational Therapy – Licensure by Endorsement**
Final rulemaking of the State Board of Occupational Therapy Education and Licensure relating to Licensure by Endorsement - This final rulemaking is needed to effectuate 63 Pa.C.S. § 3111 (relating to licensure by endorsement) for applicants licensed in other jurisdictions where the licensure requirements are substantially equivalent or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of demonstrating competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.
- **16A-5218 – Optometry Board – Licensure by Endorsement**
Final rulemaking of the State Board of Optometry relating to License by Endorsement - This final

rulemaking is needed to effectuate 63 Pa.C.S. § 3111 (relating to licensure by endorsement) for applicants licensed in other jurisdictions where the licensure requirements are substantially equivalent or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of demonstrating competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

➤ **16A-4956 – Medical Board – Acupuncturists and Practitioners of Oriental Medicine**

This final rulemaking updates the Board's regulations as it pertains acupuncturists and practitioners of Oriental medicine. The rulemaking makes the following changes: (1) removes outdated terminology, (2) removes outdated licensure provisions, (3) conforms the regulations to Act 134 of 2014 (Acupuncture Licensure Act), (4) restructures requirements relating to practice responsibilities of acupuncturists and practitioners of Oriental medicine who are not a medical doctors based on the type of license held, (5) expands the list of opportunities to demonstrate English language proficiency, (6) renames the subchapter to reflect the fact that since 2008, acupuncturists are licensed (not registered) and (6) imposes a new requirement that acupuncturists obtain and maintain professional liability insurance of at least \$1 million per occurrence or claims made.

Doug P. Solomon | Legal Assistant
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Solomon, Douglas

From: Brett, Joseph D. <JBrett@pahouse.net>
Sent: Monday, May 22, 2023 9:16 AM
To: Solomon, Douglas
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

Received.

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Thank you,

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Joe Brett
Research Analyst | House Professional Licensure Committee (D)
Chairman Frank Burns, 72nd Legislative District

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From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, May 22, 2023 8:37 AM
To: Orchard, Kari L. <KOrchard@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>; Brett, Joseph D. <JBrett@pahouse.net>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Importance: High

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

Please be advised that the Occupational Therapy, Optometry Boards and Medical Boards are delivering the below final rulemakings.

Thank you for your attention to this matter.

➤ **16A-6713– Occupational Therapy – Licensure by Endorsement**

Final rulemaking of the State Board of Occupational Therapy Education and Licensure relating to Licensure by Endorsement - This final rulemaking is needed to effectuate 63 Pa.C.S. § 3111 (relating to licensure by endorsement) for applicants licensed in other jurisdictions where the licensure requirements are substantially equivalent or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of demonstrating competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

➤ **16A-5218 – Optometry Board – Licensure by Endorsement**

Final rulemaking of the State Board of Optometry relating to License by Endorsement - This final rulemaking is needed to effectuate 63 Pa.C.S. § 3111 (relating to licensure by endorsement) for applicants licensed in other jurisdictions where the licensure requirements are substantially equivalent or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of demonstrating competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of provisional endorsement license. This

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Solomon, Douglas

From: Rolko, Seth <Seth.Rolko@pasenate.com>
To: Solomon, Douglas
Sent: Monday, May 22, 2023 10:01 AM
Subject: Read: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

Your message

To: Rolko, Seth
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Sent: Monday, May 22, 2023 8:26:31 AM (UTC-05:00) Eastern Time (US & Canada)

was read on Monday, May 22, 2023 10:00:38 AM (UTC-05:00) Eastern Time (US & Canada).

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Solomon, Douglas

From: Francesca Summa <fsumma@pahousegop.com>
To: Solomon, Douglas
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Subject: Read: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

Your message

To:
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Sent: Monday, May 22, 2023 12:43:19 PM (UTC+00:00) Monrovia, Reykjavik

was read on Monday, May 22, 2023 12:43:14 PM (UTC+00:00) Monrovia, Reykjavik.

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Solomon, Douglas

From: Orchard, Kari L. <KOrchard@pahouse.net>
To: Solomon, Douglas
Sent: Monday, May 22, 2023 11:09 AM
Subject: Read: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

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To:
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Sent: Monday, May 22, 2023 3:08:58 PM (UTC+00:00) Monrovia, Reykjavik

was read on Monday, May 22, 2023 3:08:54 PM (UTC+00:00) Monrovia, Reykjavik.

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Solomon, Douglas

From: Nicole Sidle <Nsidle@pahousegop.com>
To: Solomon, Douglas
Sent: Monday, May 22, 2023 8:45 AM
Subject: Read: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956

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To:
Subject: DELIVERY NOTICE: REGULATION(S): 16A-6713, 16A-5218 & 16A-4956
Sent: Monday, May 22, 2023 12:45:00 PM (UTC+00:00) Monrovia, Reykjavik

was read on Monday, May 22, 2023 12:44:54 PM (UTC+00:00) Monrovia, Reykjavik.

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