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| <h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;"><small>(All Comments submitted on this regulation will appear on IRRC's website)</small></p> | | <p style="margin: 0;"><i>INDEPENDENT REGULATORY REVIEW COMMISSION</i></p> <h1 style="margin: 0;">RECEIVED</h1> <p style="margin: 0;">NOV 28 2022</p> <p style="margin: 0;">Independent Regulatory Review Commission</p> <p style="margin: 0;">IRRC Number: <u>3362</u></p> |
| <p>(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Nursing</p> | | |
| <p>(2) Agency Number: 16A Identification Number: 5143</p> | | |
| <p>(3) PA Code Cite: 49 Pa. Code §§ 21.30a, 21.156a, 21.1101-21.1104</p> | | |
| <p>(4) Short Title: Licensure by Endorsement and Reactivation</p> | | |
| <p>(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Judith Pachter Schulder, Counsel, State Board of Nursing, Department of State; (717)783-7200; P.O. Box 69523, Harrisburg, PA 17106-9523; (717)787-0251; jschulder@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 787-0251) jawolfgang@pa.gov.</p> | | |
| <p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p> | | <p><input type="checkbox"/> Emergency Certification Regulation:</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p> |
| <p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires the State Board of Nursing (Board) 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 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 license, certificate, registration, or permit while an applicant is satisfying remaining requirements for</p> | | |

licensure by endorsement, for which the Board must set by regulation the terms of expiration. This rulemaking effectuates 63 Pa. C. S. § 3111 in proposed Subchapter K.

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) (repealed) into Title 63, 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) This rulemaking effectuates those changes.

Further, because the Board proposes methods in § 21.1102 (a)(2) to demonstrate competency via practice in another jurisdiction under 63 Pa. C. S. § 3111, the Board also proposed to amend §§ 21.30a(a)(3) and 21.156a(a)(3) to clarify and make consistent similar competency provisions for registered nurses (RNs) and licensed practical nurses (LPNs) seeking to reactivate licenses that have lapsed or been placed on inactive status for 5 years or longer.

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

63 Pa.C.S. § 3111 requires licensing boards and commissions to issue a license, certificate, registration or permit to an applicant, who pays fees established by the Board by regulation, provided the applicant meets certain criteria for eligibility. 63 Pa.C.S. § 3111 also requires boards and commissions that issue provisional licenses, certificates, registration or permits to set the expiration of the provisional endorsement license by regulation.

In addition, and specifically in connection with the amendments relating to reactivation, section 2.1(k) of the Professional Nursing Law (63 P.S. § 212.1(k)) and section 17.6 of the Practical Nurse Law (63 P.S. § 667.6) provide the Board with general authority to establish standards for the practice of professional and practical nursing, respectively.

(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, this rulemaking is not mandated by any Federal or state law or court order, or Federal regulation.

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

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. 63 Pa. C. S. § 3111 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 also enables boards and commissions under the Bureau of Professional and Occupational Affairs (Bureau) 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.

Licensure by endorsement under 63 Pa. C. S. § 3111 is an alternate pathway for licensure and certification than that delineated under sections 7, 8.1, and 8.5 of the Professional Nursing Law (63 P.S. §§ 217, 218.1 and 218.5) and section 6 of the Practical Nurse Law (63 P.S. § 656) and §§ 21.28, 21.155, 21.271(b), and 21.812 of the Board's regulations. Under these provisions, endorsement applicants for RN, LPN or licensed dietitian-nutritionist (LDN) licenses must graduate from a Pennsylvania-equivalent program in another jurisdiction and pass a Pennsylvania-equivalent licensure examination. Similarly, applicants for certification as a nurse practitioner (CRNP) or as a clinical nurse specialist (CNS) must hold a RN license, graduate from a Pennsylvania-equivalent program in another jurisdiction and possess current National certification, as applicable. Under the proposed regulations and 63 Pa.C.S. § 3111, the Board reviews the other jurisdiction's law and determines whether it is substantially equivalent to current licensure standards for the profession.

Since the effective date of Act 41 (August 30, 2019), the Board has considered 10 applications for endorsement that would meet the criteria of 63 Pa. C. S. § 3111. Of the 10 applications, the Board has issued 3 licenses and 3 provisional licenses by endorsement under 63 Pa. C. S. § 3111 (1 in 2019, 2 in 2020 and 7 in 2021) and no certificates. Under the Professional Nursing and Practical Nurse Laws, out-of-state RNs and PNs can practice in Pennsylvania on a temporary permit for one year and that timeframe may be extended for another. Additionally, although the Nurse Licensure Compact (NLC) has yet to be implemented in Pennsylvania, upon implementation out-of-state nurses who hold active, unencumbered, multi-state licenses issued by members of the NLC may practice in any state under their multi-state licenses without filing an endorsement application, meeting eligibility requirements or receiving provisional licenses. Thus, because the Board already provides other alternate pathways to licensure, the Board anticipates receiving approximately 5 applications on an annual basis under 63 Pa. C.S. § 3111. The fees for these licenses, required by 63 Pa. C. S. § 3111(a)(5), and set forth in § 21.1104 are the same fees currently being charged for endorsement applications based upon the licensure class.

Because the Board proposes methods in § 21.1102(a)(2) to demonstrate competency via practice in another jurisdiction under 63 Pa. C. S. § 3111, the Board believes that it is also appropriate to clarify the practice competency provisions for RNs and LPNs seeking reactivation after 5 years of lapse in §§ 21.30a(a)(3) and 21.156a(a)(3). The Board began identifying whether RN and LPN reactivations were based upon practice in another state in September, 2020. Approximately 90% of RNs avail themselves of the latter option. From January 1, 2021 through May 15, 2022, 1,130 RNs reactivated. All but 94 met the reactivation requirement via practice in another state. About 70% of LPNs met the reactivation requirement via practice in another state. Of the 148 LPN reactivations, all but 47 met the reactivation requirement via practice in another state.

(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?

Endorsement--63 Pa. C. S. § 3111

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

out-of-state professional licenses to work in Pennsylvania. The purpose of 63 Pa. C. S. § 3111 is also 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.

In comparing the proposed regulation to other states, the Board researched states in the Northeast region of the United States. The Board identified only 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. Unlike the Board's proposed regulations, however, New Jersey does not have the discretion to issue discretionary provisional licenses. As such, Pennsylvania has a competitive advantage.

The Board also researched whether other boards of Nursing in the region—Delaware, Maryland, Maine, New Hampshire, West Virginia, Connecticut, Massachusetts, New York, Rhode Island, Ohio and Vermont—have similar licensure by endorsement laws and regulations applicable to RNs, LPNs, CRNPs, CNSs and LDNs. The Board compared the following criteria: eligibility requirements (substantial equivalence or other standard); competency methods (for both endorsement and reactivation); and the authority to issue provisional licenses.

Applicants for RN and LPN licensure in Pennsylvania have the option of applying for licensure by examination, licensure by endorsement, and temporary practice permits (TPPs). TPP holders may practice for one year while they secure documents to support their applications and the Board reviews their applications. Under the Professional Nursing Law, applicants for LDN licenses and CRNP and CNS certification have the sole option of applying for licensure as their licensure pathways are not broken down into licensure by examination and licensure by endorsement. 63 Pa. C. S. § 3111 provides another pathway for licensure in the Commonwealth as it gives the discretion to issue provisional licenses not only to RNs, LPNs, but also to CRNPs, CNSs and LDNs for one year while the provisional license holders satisfy the requirements for licensure.

The Nurse Licensure Compact (NLC) member states, Delaware, Maryland, Maine, New Hampshire, West Virginia, New Jersey and soon to be Ohio, permit active, unencumbered, multi-state RN or LPN licensees to practice in any NLC member state without filing any applications, meeting any eligibility requirements, or receiving any licenses. Because the NLC states do not require licensed RNs or LPNs to obtain licensure in their state, once the NLC is implemented in Pennsylvania, this regulation will only impact states that are not NLC members. In the interim, Pennsylvania will not be at a competitive disadvantage as these applicants are eligible for TPPs and licensure by endorsement by either method. Since the NLC does not apply to advanced practice nurses and LDNs, they will have to apply to the NLC states by usual endorsement methods.

Non-NLC states in the region, Connecticut, Massachusetts, New York, Rhode Island and Vermont, offer an RN and LPN license by endorsement without a concomitant competency requirement. While this may appear that Pennsylvania is at a competitive disadvantage for RN and LPN applicants in regard to those states, the competency requirement is a statutory requirement, and the law specifically authorizes experience to establish competency. The Board chose to require 1,800 hours of active engagement per

year for at least 2 of 5 years immediately preceding application or 3,600 hours of active engagement within 5 years immediately preceding application. The Board believes that on average full-time nursing and dietetics-nutrition practice, excluding vacation, is composed of 50 35-hour weeks for a total of 1,800 hours per year. For nursing practicing full-time, the 3,600 hours can be achieved in 2 years. For nurses and dietician-nutritionists practicing part-time or a combination of full-time and part-time, the 3,600 hours can be accomplished within 5 years. The Board rejected the idea of permitting competency to be demonstrated through the completion of continuing education or other means as it believes that these alternative methods do not demonstrate that the applicant actually practiced or is capable of practicing. Unlike the non-NLC states in the region, this regulation allows nurses and dietician-nutritionists to begin practicing while they obtain their experience or meet the licensure requirements, and none of the states within the region offer provisional licenses for those applying for licensure by endorsement. Thus, the Board does not believe this proposed regulation will place Pennsylvania at competitive disadvantage and, in fact, has a competitive advantage in that it permits CRNPs, CNSs and LDNs to obtain provisional licenses.

Similarly, the Board's English proficiency requirement will not create a competitive disadvantage. Both NLC and non-NLC states in the region require applicants to successfully pass an English proficiency examination where their nursing education was not taught in English. Additionally, English proficiency is essential for nurses to have the ability communicate with one another and with their patients. The Board provides a variety of ways that an applicant can establish English proficiency: completing a nursing education program in English, obtaining clinical or post-licensure experience at an English-speaking facility or achieving a passing score on a Board-approved English language proficiency examination.

As mentioned above, most applicants who are licensed, in good standing, in another jurisdiction can already easily obtain a license by endorsement under 7, 8.1, and 8.5 of the RN Law (63 P.S. §§ 217, 218.1 and 218.5) and section 6 of the PN Law (63 P.S. § 656) and §§ 21.28, 21.155, 21.271(b), and 21.812 of the Board's regulations. Also, because the Board issues temporary permits, which authorize the same practice as provisional licenses, to similarly educated and examined licensees of other states for one year and has the discretion to extend the temporary permit for another year without the demonstration of competence, aside from rare cases, there are few applicants who would require a provisional license. Nonetheless, adding the alternate pathway to licensure by endorsement under 63 P.S. § 3111, enables applicants licensed in other jurisdictions who do not meet the Board's licensure standards, the option to obtain provisional licenses and begin practicing. Therefore, the proposed regulations put Pennsylvania at a competitive advantage as compared to many other states.

Reactivation

The reactivation provision in this regulation at §§21.20a(a)(3) and 21.156a(a)(3) will also not adversely affect Pennsylvania's ability to compete with other states. Currently, Pennsylvania licensees whose licenses have lapsed for five or more years have three options to prove their continued competency: retake and pass the NCLEX[®], complete a Board-approved reactivation program, or practice in another jurisdiction within the last five years. Approximately 90% of RNs and 70% of LPNs avail themselves of the latter option. In this regulation, the Board replaces the amorphous "at some period of time" in the latter option with the definitive "at least 3,600 hours" within the last five years. The Board chose this timeframe to be consistent with the one discussed above in proposed § 21.1102(a)(2). It reflects two years of full-time active engagement over the span of five years.

The requirements for reactivation vary amongst the states within the region both as to when the requirements kick in and what methods are acceptable to demonstrate competence. In Connecticut,

licensees who have been out of the active, clinical practice of nursing for longer than 3 years and less than 5 years are required to complete an approved refresher course. Connecticut licensees who have been out of practice longer than 5 years are required to complete an approved refresher course and retake and pass the NCLEX® examination. In Delaware, licensees who have not practiced within the last 2 years, must document satisfactory completion of a refresher program with an approved agency within 2 years prior to reactivation. In the event no refresher course is available, the Delaware Board may consider alternate methods of evaluating current knowledge in professional or practical nursing. In New Jersey, licensees who have been out of the active, clinical practice of nursing must complete continuing education and if determined by the Board, complete an examination, skills assessment or a refresher course. In New York, licensees who let their license expire must retake and pass the NCLEX®.

In Maryland, licensees who have not practiced within the last 5 years, must document satisfactory completion of an approved refresher program. In New Hampshire, licensees who have not practiced for at least 400 hours within the 4 years immediately preceding application for reactivation or completed 30 hours of continuing education within 2 years immediately prior to application for reactivation, must retake and pass the NCLEX® examination within 2 years of application. In Vermont, licensees who have not practiced for a minimum of 50 days (500 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years must successfully complete a re-entry program approved by the Board. In Ohio, licensees who have been inactive for 5 years or more must complete 24 hours of continuing education. In Rhode Island, licensees who have been out of the active, clinical practice of nursing must complete continuing education or a re-entry program approved by the Board.

Massachusetts, Maine and West Virginia do not impose additional requirements on licensees whose licenses lapsed/expired. Like active licensees at the end of a biennial renewal period, these licensees must complete the continuing education requirement necessary for renewal.

The Board's methods to prove competence in order to reactivate a license are less restrictive than Connecticut, Delaware, New Jersey, Rhode Island, New York and Vermont as they kick in sooner than five years and therefore, Pennsylvania is at a competitive advantage. Pennsylvania is also at a competitive advantage over Maryland and Ohio, whose timeframes are the same as Pennsylvania, but only offer one reactivation pathway and that pathway does not include recognition of time spent practicing nursing in another jurisdiction. Pennsylvania is not at a competitive advantage over Massachusetts, Maine and West Virginia as they do not have any reactivation requirements.

(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.)

The Board discussed this regulation or information contained in this regulation at its meetings on July 25, September 12 and December 4, 2019, and October 22, 2020. The Board sent an exposure draft of the

proposed regulations to stakeholders on February 4, 2020. A list of stakeholders is attached as Attachment A.

The Board considered input and information provided by the Maria Battista, J.D., Ed.D., Director of Policy and Government Affairs, Pennsylvania Coalition of Nurse Practitioners, Linda F. Roy, Ph.D., Director, Nursing Program, Montgomery County Community College and Mary Elizabeth Tadduni, Division Head, Nursing, DeSales University. Dr. Roy questioned how “active engagement” is defined, how the Board settles on an approximate 34 hour/week determination and why “experience” and not “active engagement” is used in paragraph (iv). Ms. Tadduni commented that the minimum practice requirement could present a hardship to licensees from other states. As explained in question #12, the Board’s competency requirement for licensure by endorsement under 63 Pa. C. S. § 3111 will not put Pennsylvania at a competitive disadvantage because there are other avenues for licensure and TPPs available to applicants and this pathway permits applicants to practice on a provisional license while completing the experience or licensure requirements. The Board did not receive any comments on the reactivation revision.

(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 very few individuals will apply for licensure by endorsement under 63 Pa. C. S. § 3111 on an annual basis. If they choose this pathway, they will be required to document their experience to obtain a license; if the experience is not completed, the Board may grant them a provisional license while they obtain their experience or complete their licensure requirements.

According to the Pennsylvania Department of Labor and Industry in 2020, nurses provide their services for a variety of private and public sector employers. The majority of RNs work in general medical & surgical hospitals (60.0%) while a minority work in ambulatory healthcare services, including physician offices (18%). Other RNs are employed by nursing and residential care facilities (7%), government (5%) and in educational services (3%). Likewise, according to the Pennsylvania Department of Labor & Industry, the majority of LPNs work in nursing and residential care facilities (38%), hospitals (15%), physician offices (13%), home health care services (13%) and government (6%). For LDNs, many jobs are in hospitals (30%). Other LDNs work in government (13%), nursing and residential care facilities (10%), outpatient care centers (9%) and self-employed workers (4%).

The majority of CRNPs work for offices of physicians (47%) while a minority work for general medical and surgical hospitals (27%), and outpatient care centers (8%) Others work in educational services (4%) and offices of other health practitioners (3%). The majority of CNSs work for hospitals (60%) while a minority work in ambulatory healthcare services (18%) including physician’ offices, home healthcare and outpatient care centers. Other CNSs work for nursing and residential care facilities (7%), government (5%), and educational services (3%).

According to the Small Business Administration (SBA), there are approximately 1,079,103 businesses in Pennsylvania; of which 1,074,787 are small businesses. Of the 1,074,787 small businesses, 225,751 are small employers (those with fewer than 500 employees) and the remaining 849,036 are non-employers. Thus, the vast majority of businesses in Pennsylvania are considered small businesses.

For the business entities listed above, small businesses are defined in Section 3 of Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration’s (SBA) Small

Business Size Regulations under 13 CFR Ch. 1 Part 121. Specifically, the SBA has established these size standards at 13 CFR 121.201 for types of businesses under the North American Industry Classification System (NAICS).

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where licensees may work, for all types of hospitals (#622110, 622210 and 622310), the small business threshold is \$41.5 million or less in average annual receipts. Nursing care facilities (#623110) have a small business threshold of \$30 million or less in average annual receipts. Outpatient care centers (#621498) have a small business threshold at \$22 million or less. For miscellaneous ambulatory health care services (#621999), the small business threshold is \$16.5 million or less. For home health care services (#621610), the small business threshold is \$16.5 million or less. For offices of physicians (#621111), the small business threshold would be \$12.0 million or less. For all other residential care facilities (#623990), the small business threshold is also \$12.0 million or less in average annual receipts. Finally, for offices of other miscellaneous health care practitioners, the small business threshold is \$8.0 million or less.

Many of the hospitals and health systems in Pennsylvania would not be considered small businesses under these thresholds. However, the Board does not collect information on the size of the businesses where its licensees are employed. For purposes of determining the economic impact on small businesses, the Board assumes that a large number of its licensees either are owners of or work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act.

This rulemaking only affects RNs, LPNs, CRNPs, LDNs and CNSs who apply for licensure by endorsement under 63 Pa. C. S. § 3111. Those applicants would be impacted by the \$120 application fee. This fee is similar to the amount RN and LPN applicants who apply by endorsement under the act; there is currently no endorsement option available to CRNPs, LDNs and CNSs. If an English-language proficiency examination is required, the applicant would pay on average an additional \$200 to the test administrator. Whether small businesses will be impacted by the regulations depends on whether the businesses would pay the application fee for licensure by endorsement under 63 Pa. C. S. § 3111. Because the application fees are incurred by individuals applying for initial licensure by endorsement, any business (small or otherwise) could avoid these costs by requiring employees to pay their own licensure costs. Moreover, the proposed rulemaking has 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.

As for the reactivation revision, because licensees already have to document practicing in another state for two of the last five years if they chose that option, the addition of a specific number of hours does not generate additional costs.

(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.

RN, LPN, CRNP, LDN and CNS applicants for licensure by endorsement under 63 Pa. C. S. § 3111 will be required to comply with the proposed rulemaking. The Board estimates less than 5 licensure by endorsement applications a year for these professions. Small businesses will only be impacted to the extent they voluntarily pay licensure fees and other costs for applicants.

RN and LPN applicants for reactivation who chose the experience pathway, rather than reexamination or

a refresher course, will also be required to comply with this proposed rulemaking. Approximately 90% of RNs avail themselves of the latter option. From January 1, 2021 through May 15, 2022, 1,130 RNs reactivated. All but 94 met the reactivation requirement via practice in another state. About 70% of LPNs met the reactivation requirement via practice in another state. Of the 148 LPN reactivations, all but 47 met the reactivation requirement via practice in another state.

(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 selected minimum hours of experience as the method of competence as it assures didactic as well as clinical competency. The inclusion of the English proficiency requirement will assist in assuring that nurses have the ability to communicate with one another and with their patients.

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 licensure by endorsement under 63 Pa. C. S. § 3111 would be required to pay the application fee, which covers the costs of processing the application. This application fee is the same for other applicants applying by endorsement authorized by the practice act. For foreign applicants, if the other law, regulation or other rule is in a language other than English, § 1102(a)(1)(ii) would require the applicant to have it professionally translated at the applicant's expense. 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. The Board has been processing applications for licensure by endorsement under 63 Pa.C.S. § 3111 for almost two years.

The positive impact for the applicants is that 63 Pa.C.S. § 3111 and the proposed regulation provides a another 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. Of the 10 applications the Board has received, no applicants have incurred the cost of translating the law, regulation or rule to English. The Board does not anticipate that many applicants will incur this cost.

Regarding costs associated with demonstrating competency, the Board is authorized to select the methods of competency under section 63 Pa.C.S. § 3111 (a)(2) and has provided applicants with a full-time and part-time experience alternative. Applicants will incur no costs to demonstrate competency. Additionally, completing the mandatory child abuse recognition and reporting training will not have a negative fiscal impact if the applicant chooses a free training course. Requiring licensees to take this training will have a positive impact on the profession and for Pennsylvania citizens because nurses will be educated on recognizing child abuse and will also have specific training on how to report child abuse this Commonwealth.

There are no additional costs associated with amending §§ 21.30a(a)(3) and 21.156a(a)(3) as these provisions relate to minimum experience necessary to prove continued competence for reactivation.

(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.

Applicants for licensure by endorsement under 63 Pa.C.S. § 3111 will incur the \$120 application fee in § 21.1104. All applicants must complete child abuse recognition and reporting training, as required by section 6383(b)(3)(i) of the CPSL. There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training.

Since the effective date of 63 Pa. C. S. § 3111, the Board has issued 5 RN licenses and 7 RN provisional licenses by endorsement under 63 Pa. C. S. § 3111 (1 in 2019, 2 in 2020, 8 in 2021 and 1 in 2022) and no certificates. During this period, the total costs incurred for application fees was \$1440.00 (\$120.00 x 12). Based upon this information, the Board anticipates 0-5 licensure by endorsement applications per year, which will result in approximate costs in the amount of \$600 annually. There have been no costs incurred for English-language proficiency or translation services.

There are no additional costs associated with amending §§ 21.30a(a)(3) and 21.156a(a)(3). Since January 1, 2021, 1,278 registered and practical nurses whose licenses had lapsed/expired for 5 or more years applied for reactivation and paid the \$130.00 reactivation fee. Until the NLC is implemented, the Board anticipates receiving about 600 applications for reactivation annually. Once it is implemented, licensees who hold an out-of-state multistate license will not be required to apply for reactivation to practice in Pennsylvania.

(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 will incur increased operational costs to implement the licensure by endorsement under 63 Pa. C. S. § 3111. The costs incurred by the Board should be 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 licensure accompanied by required documentation.

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

Yes, applicants are required to submit an online application.

(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 Pennsylvania Licensing System (PALS), which also encompasses applications for licensure by endorsement under 63 Pa. C.S. § 3111. 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 final rulemaking as another state, territory or country, are directed 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 or any other jurisdiction. Applicants with disciplinary history must upload appropriate documentation related to the discipline. Applicants must also provide a recent Criminal History Records Check (CHRC) from the state police or other state or 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, if necessary, to determine eligibility under 63 Pa. C.S. § 3111. The Bureau is working towards creating a more detailed electronic application process specific to 63 Pa. C.S. § 3111 applications, 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 licensure by endorsement application. See Attachment "B."

The reactivation application will be revised to include the specific hours needed to reactivate the license. A draft of the revised reactivation application is attached as Attachment "C".

(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 21-22 | FY +1 22-23 | FY +2 23-24 | FY +3 24-25 | FY +4 25-26 | FY +5 26-27 |
|-----------------------------|-----------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| SAVINGS: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | N/A | N/A | N/A | N/A | N/A | N/A |
| Local Government | N/A | N/A | N/A | N/A | N/A | N/A |
| State Government | N/A | N/A | N/A | N/A | N/A | N/A |
| Total Savings | N/A | N/A | N/A | N/A | N/A | N/A |
| COSTS: | | | | | | |
| Regulated Community | \$600.00 | \$600.00 | \$600.00 | \$600.00 | \$600.00 | \$600.00 |
| Local Government | N/A | N/A | N/A | N/A | N/A | N/A |
| State Government | N/A | N/A | N/A | N/A | N/A | N/A |
| Total Costs | \$600.00 | \$600.00 | \$600.00 | \$600.00 | \$600.00 | \$600.00 |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | N/A | N/A | N/A | N/A | N/A | N/A |
| Local Government | N/A | N/A | N/A | N/A | N/A | N/A |
| State Government | N/A | N/A | N/A | N/A | N/A | N/A |
| 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) |
|-------------------------------|---|---|--|--|
| State Board of Nursing | \$16,491,509.70 | \$16,466,067.42 | \$16,845,000.00 | \$16,957,000.00 |

(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.

(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. The Board attaches fee report forms that provide the breakdown of costs for licensure by endorsement application fees under 63 Pa.C.S. § 3111. See, Attachment "D".

(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 public board meetings on July 25, September 12 and December 4, 2019, and October 22, 2020.

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|----|--|--------------------------------------|
| C. | The expected date of the final-form regulation: | Winter of 2023 |
| D. | The expected effective date of the final-form regulation: | Upon notice or publication as final. |
| E. | The expected date by which compliance with the final-form regulation will be required: | Upon notice or 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 2022: July 20, September 7, October 28, and December 16. The Board will meet on the following dates in 2023: January 20, March 6, April 14, June 5, July 20, September 15, October 30, and December 11. More information can be found on the Board's website

(<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Nursing/Pages/default.aspx>) .

ATTACHMENT A

**STATE BOARD OF NURSING STAKEHOLDERS
SENT EXPOSURE DRAFT OF 16A-5143**

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kmarch@ycp.edu

York College of Pennsylvania - CRNP
Dr. Susan Scherr

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ATTACHMENT B

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

Telephone: (717) 783-7142
Fax: (717) 783-0822
Website: www.dos.pa.gov/nurse
E-Mail: st-nurse@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 State Board of Nursing (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 nursing or nutrition-dietetics in good standing 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 nursing or nutrition-dietetics by demonstrating, at a minimum, that the applicant has actively engaged 1800 hours of practice in nursing or nutrition-dietetics 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.
 - Experience in the practice of nursing or nutrition-dietetics by demonstrating, at a minimum, that the applicant has actively engaged 3600 hours of practice in nursing or nutrition-dietetics in the jurisdiction that issued the license, certificate, registration or permit during the 5 years immediately preceding the filing of the application with the Board.
- C. Demonstrates English language proficiency by one of the following:
 - The applicant's educational program was taught in English.
 - The applicant's clinical or post-licensure experience was obtained at an English-speaking facility.
 - The applicant has achieved the passing score on a Board-approved English language proficiency examination. A list of Board-approved examinations and their passing scores are available at <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Nursing/Documents/Board%20Documents/Board-Approved-English-Proficiency-Exams.pdf>.
- D. Has not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certification, registration or permit to practice nursing or nutrition-dietetics under the acts 63 P.S. §§ 244(a) and 666(a)) and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.
- E. Has paid the \$120.00 fee applicable to the license or certificate being sought.
- F. 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. Based upon a review of the applicable law, regulation or other rule, additional documentation may be required to prove that the requirements are substantially equivalent.

2. APPLICATION CHECKLIST

Persons licensed in other jurisdictions who possess a current 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).

- Application Fee – Check or money order made payable to the Commonwealth of Pennsylvania. Fees are not refundable or transferable. If you do not receive the Board's approval to sit for the examination within one year from the date your application is received, you will be required to submit another application fee. 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 nursing or nutrition-dietetics submit a letter of good standing directly to the Board with a state seal affixed to the letter.
- A Criminal Background Check from the state in which you reside 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 between the date of submission of the application and the date of passing the examination must be reported to the Board in writing.

7. Select the license/certificate for which you are applying:

- RN LPN
 CRNP LDN
 CNS

Name of Nursing Education Program(s) completed:

8. Competency Requirement

Experience:

Have you actively engaged in the practice of professional nursing practical nursing nutrition-dietetics as a certified registered nurse practitioner as a clinical nurse specialist in the jurisdiction that issued the license, certificate, registration or permit for 1800 hours in at least 2 of the last 5 years 3600 hours in at least 5 years immediately preceding the filing of this application?

Provide a curriculum vitae demonstrating this experience.

English-language proficiency:

Do you possess English language proficiency because educational program was taught in English clinical or post-licensure experience was obtained at an English-speaking facility passed a Board-approved English language proficiency examination?

If applicable, provide the results on a Board-approved English language proficiency examination.

9. Name state where initial license/certificate to practice nursing or nutrition-dietetics was issued.

Date initial license/certificate was issued _____.

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

Have the licensing authority listed above submit a letter of good standing (verification of licensure/certification) 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"/> |

| <i>If you answer YES to any of the following questions, provide complete details as well as copies of relevant documents to the Board office.</i> | | 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? | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. | Have you ever had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority? | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. | Have you ever had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility? | <input type="checkbox"/> | <input type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> |

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. In addition, Social Security Numbers are required in order for the Board to comply with the reporting requirements of the U.S. Department of Health and Human Services, National Practitioner Data Bank.

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

ATTACHMENT C

STATE BOARD OF NURSING

Mailing Address:
 State Board of Nursing
 P.O. Box 2649
 Harrisburg, PA 17105

Telephone: 717-783-7142
 Fax: 717-783-0822
 Email: st-nurse@pa.gov
www.dos.pa.gov/nurse

Application for Reactivation of a Registered or Practical Nurse License that has been Expired or Inactive for Five or More Years

****This application cannot be used for the purpose of renewing a current license.****

| | |
|--|--|
| <p><u>Notice: Fee was increased on July 27, 2019.</u></p> <p>FEE: RN \$252.00 PN: \$206.00</p> <p>Fee includes a \$130.00 Reactivation Fee plus the current Renewal Fee.</p> <p>The non-refundable fee must be submitted in the form of a personal check, cashier's check, or money order made payable to the Commonwealth of Pennsylvania.</p> <p>A processing fee of \$20.00 will be charged for a check or money order returned unpaid.</p> <p>Note: For reactivation, all registered and practical nurse licensees are required to complete 2 hours of continuing education in child abuse recognition and reporting. For the list of approved providers, go to www.dos.pa.gov.</p> <p>Warning: Practicing on an expired license may result in disciplinary actions and additional monetary penalties.</p> | <p>Name _____ (Last) (First) (Middle)</p> <p>Maiden Name _____</p> <p>All last names you have used _____</p> <p style="text-align: center;">Notice: Licenses cannot be forwarded by post office.</p> <p>Current Address _____</p> <p>City _____ State _____ Zip _____</p> <p>Telephone # _____ Date of Birth _____ (Include the area code) (Month) (Day) (Year)</p> <p>Email Address _____</p> <p>U.S. Social Security Number _____</p> <p>PA License # _____</p> <p>Expiration Date ____ / ____ / ____</p> |
| <p>Circle the option you will be using to provide proof of continued competency</p> | |
| <p>A - Showing proof of 3600 hours of practice as a nurse in another jurisdiction within the last 5 years</p> | |
| <p>B - Examination (NCLEX)</p> | |
| <p>C - Board-Approved Reactivation Program</p> | |

The Professional Nursing Law states that "the 'Practice of Professional Nursing' means diagnosing and treating human responses to actual or potential health problems through such services as case finding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens as prescribed by a licensed physician or dentist. The foregoing shall not be deemed to include acts of medical diagnosis or prescription of medical therapeutic or corrective measures, except as performed by a certified registered nurse practitioner acting in accordance with rules and regulations promulgated by the Board."

The Practical Nurse Law states that "the 'practice of practical nursing' means the performance of selected nursing acts in the care of the ill, injured or infirm under the direction of a licensed professional nurse, a licensed physician, or a licensed dentist which do not require the specialized skill, judgment and knowledge required in professional nursing."

Print your NAME: _____ PA license # _____

| | YES | NO |
|--|-----|----|
| Have you engaged in the practice of nursing in Pennsylvania since your Pennsylvania license lapsed or you placed it on inactive status? If yes: From: _____ to _____ | | |
| Have you engaged in the practice of nursing outside of Pennsylvania since your Pennsylvania license lapsed or you placed it on inactive status? | | |
| Have you been employed by the federal government as a nurse since your Pennsylvania license lapsed or you placed it on inactive status? | | |
| 1. Are you submitting a name change with this reactivation? | | |
| Change name to: | | |
| You must submit a copy of a legal document verifying the name(s). The following are acceptable name change verification documents: | | |
| <ul style="list-style-type: none"> • Marriage Certificate • Divorce decree which indicates the retaking of your maiden name • Other "legal" document indicating the retaking of a maiden name • For a "legal" name change, a copy of the court document must be provided | | |
| 2. With the exception of the one you are currently reactivating, do you hold, or have you ever held, a license, certificate, permit, registration or other authorization to practice a profession or occupation in any state or jurisdiction? | | |
| Please provide the profession and state or jurisdiction. | | |
| If you answer yes to questions 3, 4 and/or 5, provide copies of all disciplinary actions from the Boards that imposed actions and a personal detailed statement. If you answer yes to questions 6, 7, 8 and/or 9, provide copies of pertinent documents and a personal detailed statement. | | |
| 3. Since your initial application or last renewal, whichever is later, 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? | | |
| 4. Do you currently have any disciplinary charges pending against your professional or occupational license, certificate, permit or registration in any state or jurisdiction? | | |
| 5. Since your initial application or last renewal, whichever is later, 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? | | |
| 6. Since your initial application or your last renewal, whichever is later, have you had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority? | | |
| 7. Since your initial application or your last renewal, whichever is later, have you ever had practice privileges denied, revoked, suspended, or restricted by a hospital or any health care facility? | | |
| 8. Since your initial application or your last renewal, whichever is later, have you been charged by a hospital, university, or research facility with violating research protocols, falsifying research, or engaging in other research misconduct? | | |

Print your NAME: _____ PA license # _____

| | YES | NO |
|--|-----|----|
| 9. Since your initial application or last renewal, whichever is later, have you 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? | | |
| 10. For RNs Only: Have you <u>completed</u> a minimum of 30 hours of Board-approved continuing education within the last 2 years? To reactivate the license, you are required to complete at least 30 hours of Board-approved continuing education within the past two years. Attach copies of the continuing education certificates to this reactivation application and return with the fee. These continuing education hours cannot be used in any future licensure renewal. | | |

ACKNOWLEDGEMENT OF DUTY TO SELF-REPORT DISCIPLINARY CONDUCT AND CERTAIN CRIMINAL ACTIVITY

I, _____, hereby acknowledge that in addition to any existing reporting requirement required by a specific board or commission, I am REQUIRED pursuant to Act 6 of 2018 to NOTIFY the Bureau of Professional and Occupational Affairs WITHIN 30 DAYS of the occurrence of any of the following: (1) A disciplinary action taken against me by a licensing board or agency in another jurisdiction; (2) A finding or verdict of guilt, an admission of guilt, a plea of nolo contendere, probation without verdict, a disposition in lieu of trial or an Accelerated Rehabilitative Disposition (ARD) of any felony or misdemeanor offense in a criminal proceeding. I further acknowledge that failure to comply with these mandatory reporting requirements may subject me to disciplinary action by the Board. I acknowledge my understanding that to self-report a disciplinary action or criminal matter as set forth above, I may log in to the Pennsylvania Licensing System (PALS) at www.pals.pa.gov and select "Mandatory Reporting by Licensee" under the heading "Your Licenses."

Licensee Signature

Date

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.

Licensee Signature

Date

This application is valid for one (1) year from the date the application was signed. The process must be completed within this timeframe or you will be required to submit a new application and repay the reactivation fee.

Attachments:

- RN Reactivation Employment Letter
- PN Reactivation Employment Letter
- List of Board-approved Reactivation Programs
- Application for Exam for the Purpose of Continued Competency



STATE BOARD OF NURSING
P.O. BOX 2649
HARRISBURG, PA 17105-2649

PHONE: (717) 783-7142
www.dos.pa.gov/nurse

FAX: (717)783-0822
email: st-nurse@pa.gov

For the Purpose of RN License Reactivation

~~(This form is to be completed by the employer with whom the nurse worked at some period of time~~ As part of providing evidence that the applicant has practiced as an RN for at least 3,600 hours within the last 5 years, this form is to be completed by the employer(s) with whom the nurse worked within the last 5 years.)

_____ has practiced as a reistered nurse from
(Name of Applicant)

_____ to _____
(MM/DD/YYYY) (MM/DD/YYYY)

The total number of hours worked is _____.

Employer signature: _____

Print Name: _____

Title: _____

Date: _____

Workplace Name: _____

Address: _____

Email address: _____

Telephone Number: (_____

ATTACHMENT D

**PA DEPARTMENT OF STATE
FEE REPORT FORM**

AGENCY:

DATE:

CONTACT:

PHONE:

FEE TITLE, RATE, AND ESTIMATED COLLECTIONS:

| | |
|----------------------------------|--|
| TITLE: | Practical Nurse (PN) Act 41 Licensure by Endorsement |
| CURRENT FEE (if applicable): | \$120.00 |
| NUMBER OF APPLICATIONS ANNUALLY: | 1000 |

FEE DESCRIPTION:

The fee will be charged to every applicant for a PN Act 41 Licensure by Endorsement application.

FEE OBJECTIVE:

The fee should offset the identifiable costs incurred by the State Board of Nursing to process an application.

FEE-RELATED ACTIVITIES AND COSTS:

| JOB TYPE | JOB CLASSIFICATION | TIME SPENT | TOTAL COST |
|--|-----------------------------------|------------|-----------------|
| CLERICAL STAFF REVIEW | Education Certification Evaluator | 1hr | \$48.00 |
| BOARD ADMINISTRATIVE SUPERVISOR REVIEW | Administrative Officer 2 | 25hr | \$15.32 |
| BOARD COUNSEL REVIEW | Attorney 4 | 5hr | \$50.51 |
| BOARD MEMBER REVIEW | 2 Board Members | 25hr | \$4.00 |
| TOTAL ESTIMATED COST: | | | \$117.83 |
| TRANSACTION FEE: | | | \$3.14 |
| PROPOSED FEE: | | | \$120.97 |

ANALYSIS, COMMENT, AND RECOMMENDATION:

RECOMMENDATION It is recommended that a fee of \$120.00 be established for processing an application for a PN Act 41 Licensure by Endorsement license.

CLERICAL STAFF REVIEW: Staff opens, scans, and uploads application to the licensing system. Staff reviews the application by ensuring all documents are received, complete and correct. Staff makes appropriate notations in the applicant's file through the licensing system. If any documents are not received and/or are incorrect, staff sends a discrepancy email. Staff evaluates information to determine equivalency to another state's laws and regulations. Applications with disciplinary/legal action are forwarded to the Board's Legal Counsel for review. When complete, staff forwards application to the Board Administrative Supervisor. Once the application is approved by the Board Administrative Supervisor and Board Counsel, staff updates the licensing system and issues the license.

BOARD ADMINISTRATIVE SUPERVISOR REVIEW: Board Administrative Supervisor reviews the clerical staff determination of equivalency. If the Board Administrative Supervisor agrees, it is forwarded to Board Counsel for review. Once the application is approved by Board Counsel, the Board Administrative Supervisor returns the application to the Clerical Staff for issuing.

BOARD COUNSEL REVIEW: Board Counsel reviews the determination of equivalency. If Board Counsel questions the equivalency, the application is forwarded to two Board Members for review. Once the application is approved by the Board Members and/or Board Counsel, the approved application is returned to the Board Administrative Supervisor.

BOARD MEMBER REVIEW: Two members of the Board receive a completed application from Board Counsel and review it to determine whether the information is equivalent as outlined in the Board's regulations.

**PA DEPARTMENT OF STATE
FEE REPORT FORM**

AGENCY:

DATE:

CONTACT:

PHONE:

FEE TITLE, RATE, AND ESTIMATED COLLECTIONS:

TITLE:
 CURRENT FEE (if applicable):
 NUMBER OF APPLICATIONS ANNUALLY:

FEE DESCRIPTION:

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| JOB TYPE | JOB CLASSIFICATION | TIME SPENT | TOTAL COST |
|---------------------------------|-----------------------------------|------------|-----------------|
| CLERICAL STAFF REVIEW | Education Certification Evaluator | 1hr | \$48.00 |
| BOARD ADMINISTRATIVE SUPERVISOR | Administrative Officer 2 | .25hr | \$15.32 |
| BOARD COUNSEL REVIEW | Attorney 4 | .5hr | \$50.51 |
| BOARD MEMBER REVIEW | 2 Board Members | .25hr | \$4.00 |
| TOTAL ESTIMATED COST: | | | \$117.83 |
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CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

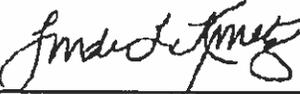
(Pursuant to Commonwealth Documents Law)

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NOV 28 2022

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><small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=Pennsylvania Office of Attorney General, email=Amy.Elliott@pa.gov, c=US Date: 2022.11.02 17:43:30-0400</small></p> <p>BY: <u>Amy M. Elliott</u> (DEPUTY ATTORNEY GENERAL)</p> <p><u>11/2/2022</u> 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><u>State Board of Nursing</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16A-5143</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u></u> LINDA L. KMETZ, PHD, RN</p> <p>TITLE <u>CHAIR</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></p> <p><u>October 6, 2022</u> DATE OF APPROVAL</p> <p><u>Deputy General Counsel</u> (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p> |
|---|---|---|

PROPOSED RULEMAKING

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

TITLE 49 PA CODE CHAPTER 21

§§ 21.30a, 21.156a, 21.1101-21.1104

LICENSURE BY ENDORSEMENT AND REACTIVATION

The State Board of Nursing (Board) proposes to amend Chapter 21 of Title 49 of the Pennsylvania Code, by amending §§ 21.30a (relating to continued competency) and 21.156a (relating to continued competency) regarding reactivation and adding Subchapter K (relating to licensure by endorsement under 63 Pa.C.S. § 3111) to read as set forth in Annex A.

Effective date

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

Statutory Authority

The amendments relating to reactivation are proposed under the authority of section 2.1(k) of the Professional Nursing Law (63 P.S. § 212.1(k)) and section 17.6 of the Practical Nurse Law (63 P.S. § 667.6) which provide the Board with general authority to establish standards for the practice of professional and practical nursing, respectively, and the practice of dietetics-nutrition.

The provisions of 63 Pa.C.S. § 3111 (relating to licensure by endorsement) require 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. The new provisions in Subchapter K are proposed under 63 Pa.C.S. § 3111.

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) (repealed) into Title 63, 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).

Background and Need for the Amendments

This proposed rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license or certificate 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(a)(1), the Board must

determine whether the jurisdiction's standards for licensure or certification are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111(a)(2) 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. Under 63 Pa.C.S. § 3111(b)(2), the Board must establish, by regulation, the expiration of the 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. In § 21.1104, this proposed rulemaking sets forth the applicable fee for licensure by endorsement applications under 63 Pa.C.S. § 3111. The proposed fees are identical to existing licensure by endorsement fees by licensure classification.

Licensure by endorsement under 63 Pa.C.S. § 3111 is an alternate pathway for licensure and certification than that delineated under section 7 of the Professional Nursing Law (63 P.S. § 217), section 6 of the Practical Nurse Law (63 P.S. § 656) and § 21.28 and 21.155 (relating to licensure by endorsement). Under these provisions, applicants for registered nurse (RN), licensed practical nurse (LPN) or licensed dietitian-nutritionist (LDN) licenses must graduate from a Pennsylvania-equivalent program in another jurisdiction and pass a Pennsylvania-equivalent licensure examination. Similarly, applicants for certification as a certified registered nurse practitioner (CRNP) or as a clinical nurse specialist (CNS) must hold an RN license, graduate from a Pennsylvania-equivalent program in another jurisdiction and possess current National certification, as applicable. Under the proposed regulations and 63 Pa.C.S. § 3111, the Board reviews the other jurisdiction's law and determines whether it is substantially equivalent to current licensure standards for the profession.

Because the Board proposes methods in § 21.1102(a)(2) to demonstrate competency via practice in another jurisdiction under 63 Pa.C.S. § 3111, the Board believes that it is also appropriate to clarify and make consistent similar provisions in §§ 21.30a(a)(3) and 21.156a(a)(3), which provide the competency provisions for RNs and LPNs seeking reactivation who practiced in other states.

Description of the Proposed Amendments

Sections 21.30a(a) and 21.156a(a) provide three reactivation options for licensees whose licenses have lapsed or placed on inactive status for five or more years. Subsection (a)(3) in each provision requires practice "at some period of time" within the last five years. Because the Board is quantifying specific practice time in proposed § 21.1102(a)(2) and to make these provisions consistent, the Board proposes to amend §§ 21.30a(a)(3) and 21.156a(a)(3) by requiring the same 3,600 hours of active engagement in the profession during the last five years.

The Board also proposes to amend Chapter 21 by adding a new subchapter K (relating to licensure by endorsement under 63 Pa.C.S. § 3111). Section 21.1101 (relating to definitions) defines the term "jurisdiction" consistent with 63 Pa.C.S. § 3111. Proposed § 21.1102(a) requires an applicant to satisfy eight criteria required for licensure by endorsement under 63 Pa.C.S. § 3111. The first criterion, as set forth in proposed § 21.1102(a)(1), requires an applicant to have a current

license or certification in good standing to practice in another jurisdiction whose standards are substantially equivalent to those established by the Board under section 6(a) and (c) of the Professional Nursing Law (63 P.S. § 216(a) and (c)) and § 21.21 (relating to application for examination) pertaining to RNs; section 8.1 of the Professional Nursing Law (63 P.S. § 218.1) and § 21.271 (relating to certification requirements) pertaining to CRNPs; section 6(b) and (c) of the Professional Nursing Law, (63 P.S. § 216(b) and (c)) and § 21.721 (relating to qualifications for licensure) pertaining to LDNs; section 8.5 of the Professional Nursing Law (63 P.S. § 218.5) and § 21.811 (relating to qualifications for initial certification) pertaining to CNSs; and section 5 of the Practical Nurse Law (63 P.S. § 655) and § 21.151 (relating to application for examination) pertaining to LPNs. Proposed § 21.1102(a)(1)(i) further requires an applicant 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, certificate, registration or permit. Proposed § 21.1102(a)(1)(iii) would also require that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because 63 Pa.C.S. § 3111 is applicable to territories and other countries that speak languages other than English, where the applicable law, regulation or other rule is in a language other than English, the Board would require in § 21.1102(a)(1)(ii), at the applicant's expense, translation of the applicable law, regulation or other rule by a professional translation service.

Proposed subsection (a)(2) requires demonstration of competency. Under paragraph (a)(2)(i), an applicant must demonstrate either 1,800 hours of active engagement in the profession for at least 2 of the last 5 years (full-time employment) immediately preceding the filing of the application, under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions. Alternatively, an applicant must demonstrate under paragraph (a)(2)(ii), 3,600 hours of active engagement during the 5 years (part-time employment) immediately preceding the filing of an application under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions. Active engagement as used in this section refers to practice in the profession for which the license or certificate is being sought. Such practice could be obtained at private practice offices, community healthcare settings and health systems, conducting research and teaching nursing or dietetics-nutrition in a nursing or dietetics-nutrition school. The Board believes that on average full-time nursing and dietetics-nutrition practice, excluding vacation, is composed of 50 35-hour weeks for a total of 1,800 hours per year. For nurses practicing full-time, the 3,600 hours can be achieved in 2 years. For nurses and dietitian-nutritionists practicing part-time or a combination of full-time and part-time, the 3,600 hours can be accomplished within 5 years.

Proposed subsection (a)(3) requires a demonstration of English language proficiency consistent with requirements set forth in §§ 21.23(e), 21.28(e), 21.151(d) and 21.155(e) (relating to qualifications of applicant for examination; licensure by endorsement; application for examination; licensure by endorsement). For the same reasons the Board included English proficiency in its regulations pertaining to initial licensure, the Board includes English proficiency for licensure by endorsement under 63 Pa.C.S. § 3111. The Board believes that for proper patient care licensees must be proficient in English in order to fully understand the patient's symptoms and concerns, effectuate the directions and instructions from other health professionals and relay the patient's treatment to other nurses and health professionals. In addition, English language

proficiency is a standard within the profession as evidenced by its inclusion in the criteria for multistate licensure under the Nursing Licensure Compact enacted on July 1, 2021.

Ways to demonstrate proficiency include graduating from an education program taught in English, obtaining clinical or post-licensure experience in an English-speaking facility in any jurisdiction or having achieved the minimum passing score on a Board-approved English language proficiency examination. Versions of the Test of English as a Foreign Language (TOEFL), the International English Language Test System Academic Test (IELTS Academic), Pearson Test of English Academic Test (PTE Academic) and the Michigan English Language Assessment Battery with Speaking Test (MELAB with Speaking Test) are currently Board-approved at specific minimum composite and sub-part scores and posted on the Board's website at <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Nursing/Documents/Board%20Documents/Board-Approved-English-Proficiency-Exams.pdf>. The list, including scores, is reviewed by the Board on a regular basis with the last review occurring at the Board's December 9, 2021, meeting.

Proposed subsections (a)(4) and (5) incorporate the statutory prohibitions in 63 Pa.C.S. § 3111 pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license or certificate to practice the profession and prior discipline by the jurisdiction that issued the license, certificate, registration or permit. For applicants who have had criminal convictions, the Board reviews the convictions under 63 Pa.C.S. § 3113. For other prohibited acts or discipline, the Board 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.

Proposed subsection (a)(6) provides for payment of an application fee of \$120.00 contained in proposed § 21.1104 (relating to licensure by endorsement fee), as required by 63 Pa.C.S. § 3111(a)(5). Next, proposed subsection (a)(7) requires applicants to apply for licensure in accordance with this chapter in the manner and format prescribed by the Board.

Finally, proposed subsection (a)(8) requires completion of 3 hours of training in child abuse recognition and reporting, which is mandatory continuing education for all applicants under the Child Protective Services Law (CPSL) (23 Pa. C.S. § 6383(b)(3)(i)) (relating to education and training) and Subchapter E of this Chapter (relating to child abuse).

In proposed § 21.1102(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. When a personal interview is necessary, the applicant may request the interview to be conducted by video teleconference for good cause shown.

Consistent with 63 Pa.C.S. § 3111(a)(4) and (5), proposed § 21.1102(c) authorizes the Board, in its discretion, to determine that an act prohibited under section 14(a) of the Professional Nursing Law (63 P.S. § 224(a)), section 16(a) of the Practical Nurse Law (63 P.S. § 666(a)) and §§ 21.18 and 21.148 (relating to standards of nursing conduct) or disciplinary action by a jurisdiction are not impediments to the granting of a license or certificate under 63 Pa.C.S. § 3111.

Consistent with section 63 Pa.C.S. § 3111(b), proposed § 21.1103 provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under 63 Pa.C.S. § 3111 and proposed § 21.1102. Proposed § 21.1103(b) sets the expiration of a provisional endorsement license at 1 year, unless the Board determines that an expiration date of less than 1 year is appropriate. Additionally, upon a written request, the Board may extend the term of the license upon a showing of good cause. Proposed § 21.1103(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board denies or grants a license, or the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license. Finally, proposed § 21.1103(d) clarifies that while an individual may reapply for a license or certification by endorsement under proposed § 21.1102, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

Finally, proposed § 21.1104 delineates the \$120.00 fee for licenses/certifications under 63 Pa.C.S. § 3111.

Fiscal Impact and Paperwork Requirements

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement under 63 Pa. C. S. § 3111 and applications for reactivation will be recouped through fees paid by applicants. All applicants for licensure by endorsement under 63 Pa.C.S. § 3111 will be impacted by the \$120 application fee. All applicants must complete child abuse recognition and reporting training, as required by section 6383(b)(3)(i) of the CPSL. There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training. If an applicant is unable to establish English proficiency by demonstrating that their education, training, or examination was in English and they must take an approved English language proficiency examination, the cost to the applicant is approximately \$200. There are no other costs associated with this regulation related to competency.

In addition to the costs being recouped, the Board does not anticipate that many applicants will avail themselves of this pathway. Under the Professional Nursing and Practical Nurse Laws, out-of-state RNs and PNs are permitted to practice in Pennsylvania on a temporary practice permit for one year and that timeframe may be extended for another without having to demonstrate competence. Additionally, although the Nurse Licensure Compact (NLC) has yet to be implemented in Pennsylvania, upon implementation out-of-state nurses who hold active, unencumbered, multi-state licenses issued by members of the NLC may practice in any member state under their multi-state licenses without filing an endorsement application, meeting eligibility

requirements, including competency, or receiving provisional licenses.

There are no additional costs or paperwork requirements associated with the proposed reactivation amendment.

Sunset Date

The Board continuously monitors the cost effectiveness of the Board's 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 November 28, 2022, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to 16A-5143, Judith Pachter Schulder, Board Counsel, at P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail at RA-STRegulatoryCounsel@pa.gov within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference 16A-5143 (Licensure by Endorsement and Reactivation), when submitting comments.

Linda M. Kmetz, PhD, RN
Chair

ANNEX A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 21. STATE BOARD OF NURSING**

Subchapter A. REGISTERED NURSES

*** * * * *
LICENSEES**

*** * * * ***

§ 21.30a. Continued competency.

(a) A registered nurse whose license has lapsed for 5 years or longer or has been placed on inactive status for 5 years or longer, as permitted in section 11(b) of the act (63 P.S. § 221(b)), may reactivate the license by doing one of the following:

*** * * * ***

(3) Providing evidence to the Board that the applicant has a current license and has practiced as a registered nurse in another jurisdiction [at some period of time] for at least 3,600 hours within the last 5 years.

*** * * * ***

Subchapter B. PRACTICAL NURSES

*** * * * *
LICENSURE**

*** * * * ***

§ 21.156a. Continued competency.

(a) A licensed practical nurse whose license has lapsed for 5 years or longer or has been placed on inactive status for 5 years or longer, as permitted in section 13.1(b) of the act (63 P.S. § 663.1(b)), may reactivate the license by doing one of the following:

* * * * *

(3) Providing evidence to the Board that the applicant has a current license and has practiced as a practical nurse in another jurisdiction [at some period of time] for at least 3,600 hours within the last 5 years.

* * * * *

**Subchapter K. LICENSURE BY ENDORSEMENT UNDER
63 Pa.C.S. § 3111**

§ 21.1101. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Jurisdiction—a state, territory or country.

§ 21.1102. Licensure 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 satisfy all of the following conditions:

(1) Have a current license, certification, registration or permit in good standing to practice the profession in another jurisdiction whose standards are substantially equivalent to or exceed those established under section 6(a) and (c) of the Professional Nursing Law (63 P.S. § 216(a) and (c)) and § 21.21 (relating to application for examination) pertaining to registered nurses; section 5 of the Practical Nurse Law (63 P.S. § 655) and § 21.158

(relating to qualifications of application for examination) pertaining to licensed practical nurses; section 8.1 of the Professional Nursing Law (63 P.S. § 218.1) and § 21.271 (relating to certification requirements) pertaining to certified registered nurse practitioners; section 6(b) and (c) of the Professional Nursing Law (63 P.S. § 216(b) and (c)) and § 21.721 (relating to qualifications for licensure) pertaining to dietitians-nutritionists; and section 8.5 of the Professional Nursing Law (63 P.S. § 218.5) and § 21.811 (relating to qualifications for initial certification) pertaining to clinical nurse specialists.

(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 for the license or certificate being sought by one of the following:

(i) Experience in the profession by demonstrating, at a minimum, that the applicant has actively engaged in 1,800 hours per year in the practice of the profession under a license, certificate, registration or permit in a substantially

equivalent jurisdiction, or jurisdictions, for at least 2 of the 5 years immediately preceding the filing of the application with the Board.

(ii) Experience in the profession by demonstrating, at a minimum, that the applicant has actively engaged in a total of 3,600 hours in the practice of the profession under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions, during the 5 years immediately preceding the filing of the application with the Board.

(3) Demonstrate English language proficiency by one of the following:

(i) The applicant's educational program was taught in English.

(ii) The applicant's clinical experience was obtained at an English-speaking facility.

(iii) The applicant's post-licensure experience in paragraph (2) was obtained at an English-speaking facility.

(iii) The applicant has achieved the passing score on a Board-approved English language proficiency examination.

(4) Have not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession under section 14(a) of the Professional Nursing Law (63 P.S. § 224(a)), section 16(a) of the Practical Nurse Law (63 P.S. § 666(a)) and §§ 21.18 and 21.148 (relating to standards of nursing conduct).

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

(6) Have paid the fee as required by § 21.1104 (relating to licensure by endorsement fees).

(7) Have applied for licensure in accordance with this chapter in the manner and format prescribed by the Board.

(8) Complete 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) and Subchapter E (related to child abuse reporting requirements).

(b) Interview and additional information. An applicant may be required to appear before the Board for a personal interview and may be 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 subsections (a)(4) and (5), the Board may, in its discretion, determine that an act prohibited under section 14(a) of Professional Nursing Law, section 16(a) of the Practical Nurse Law and §§ 21.18 and 21.148 or disciplinary action by a jurisdiction is not an impediment to licensure or certification by endorsement under 63 Pa.C.S. § 3111.

§ 21.1103. 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 § 21.1102 (relating to licensure by endorsement under 63 Pa.C.S. § 3111).

(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 if any of the following occurs:

(1) When the Board completes its assessment of the applicant and denies or grants the license.

(2) When the holder of the provisional license fails to comply with the terms of the provisional endorsement license.

(d) Reapplication. An individual may apply for licensure by endorsement or certification under § 21.1102 after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.

§ 21.1104. Licensure by Endorsement Fee.

An applicant for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) shall pay a fee of \$120.00.



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

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7142

November 28, 2022

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

Re: Proposed Regulation
State Board of Nursing
16A-5143: Licensure By Endorsement And Reactivation

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Board of Nursing pertaining to licensure by endorsement and reactivation.

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 cursive script, appearing to read "Linda L. Kmetz".

Linda L. Kmetz, PhD, RN
State Board of Nursing

LLK/jps:kh
Enclosure

cc: Arion R. Claggett, Acting Commissioner of Professional and Occupational Affairs
K. Kalonji Johnson, Deputy Secretary of Regulatory Programs
Marc Farrell, Deputy Director of Policy, Department of State
Cynthia Montgomery, Deputy Chief Counsel, Department of State
Jacqueline A. Wolfgang, Senior Regulatory Counsel, Department of State
Judith Pachter Schulder, Counsel, State Board of Nursing
State Board of Nursing

Hardt, Kelsey

From: Blauch, Tammy <tblauch@pasen.gov>
Sent: Monday, November 28, 2022 2:08 PM
To: Hardt, Kelsey; Smeltz, Jennifer
Subject: RE: DELIVERY: Regulation 16A-5143

Confirming receipt.
Thank you.

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

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NOV 28 2022

Independent Regulatory
Review Commission

From: Hardt, Kelsey <khardt@pa.gov>
Sent: Monday, November 28, 2022 2:07 PM
To: Smeltz, Jennifer <jmsmeltz@pasen.gov>; Blauch, Tammy <tblauch@pasen.gov>
Subject: RE: DELIVERY: Regulation 16A-5143
Importance: High

Ⓢ CAUTION : External Email Ⓢ

Good afternoon,

I am just following up with regards to the email sent this morning. Please reply and confirm receipt at your earliest convenience. Thank you!

Kelsey Hardt | Legal Assistant

From: Hardt, Kelsey
Sent: Monday, November 28, 2022 8:59 AM
To: jmsmeltz@pasen.gov; tblauch@pasen.gov
Subject: DELIVERY: Regulation 16A-5143
Importance: High

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

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

- 16A-4351: Licensure By Endorsement And Reactivation

Thank you!

Kelsey Hardt | 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
khardt@pa.gov | www.dos.pa.gov

REC

NOV 28 2022

Independent Hearing
Review

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Hardt, Kelsey

From: Jennifer Weaver <Jweaver@pahousegop.com>
Sent: Monday, November 28, 2022 9:07 AM
To: Hardt, Kelsey; Nicole Sidle; Emily Hackman
Subject: RE: DELIVERY: Regulation 16A-5143

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Independent Regulatory
Review Commission

Received

From: Hardt, Kelsey <khardt@pa.gov>
Sent: Monday, November 28, 2022 8:51 AM
To: Jennifer Weaver <Jweaver@pahousegop.com>; Nicole Sidle <Nsidle@pahousegop.com>; Emily Hackman <Eepler@pahousegop.com>
Subject: DELIVERY: Regulation 16A-5143
Importance: High

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

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Thank you!

Kelsey Hardt | 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
khardt@pa.gov | www.dos.pa.gov

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Hardt, Kelsey

From: Orchard, Kari L. <KOrchard@pahouse.net>
Sent: Monday, November 28, 2022 12:18 PM
To: Hardt, Kelsey; Barton, Jamie
Subject: RE: DELIVERY: Regulation 16A-5143

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NOV 28 2022

Received. Thank you!

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

**Independent Regulatory
Review Commission**

From: Hardt, Kelsey <khardt@pa.gov>
Sent: Monday, November 28, 2022 8:47 AM
To: Barton, Jamie <JBarton@pahouse.net>; Orchard, Kari L. <KOrchard@pahouse.net>
Subject: DELIVERY: Regulation 16A-5143
Importance: High

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

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

- 16A-4351: Licensure By Endorsement And Reactivation

Thank you!

Kelsey Hardt | 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
khardt@pa.gov | www.dos.pa.gov

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Hardt, Kelsey

From: Rolko, Seth <Seth.Rolko@pasenate.com>
Sent: Monday, November 28, 2022 2:18 PM
To: Hardt, Kelsey
Subject: RE: DELIVERY: Regulation 16A-5143

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NOV 28 2022

Received. Thanks.

Independent Regulatory
Review Commission

From: Hardt, Kelsey <khardt@pa.gov>
Sent: Monday, November 28, 2022 2:06 PM
To: Rolko, Seth <seth.rolko@pasenate.com>; Vazquez, Enid <Enid.Vazquez@pasenate.com>; Monoski, Jesse <Jesse.Monoski@pasenate.com>
Subject: RE: DELIVERY: Regulation 16A-5143
Importance: High

■ EXTERNAL EMAIL ■

Good afternoon,

I am just following up with regards to the email sent this morning. Please reply and confirm receipt at your earliest convenience. Thank you!

Kelsey Hardt | Legal Assistant

From: Hardt, Kelsey
Sent: Monday, November 28, 2022 8:55 AM
To: seth.rolko@pasenate.com; Enid.Vazquez@pasenate.com; Jesse.Monoski@pasenate.com
Subject: DELIVERY: Regulation 16A-5143
Importance: High

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

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

16A-4351: Licensure By Endorsement And Reactivation

Thank you!

Kelsey Hardt | 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
khardt@pa.gov | www.dos.pa.gov

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Hardt, Kelsey

From: Bulletin <bulletin@palrb.us>
Sent: Monday, November 28, 2022 9:21 AM
To: Hardt, Kelsey; Bulletin
Subject: [External] RE: DELIVERY: Regulation 16A-5143

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Good morning Kelsey,

Thank you for sending proposed rulemaking #16A-5143. Someone from our office will contact you regarding publication in the *Pennsylvania Bulletin*.

Have a nice day,

Keval Mandalia | Legal Assistant
Code & Bulletin - History Department
Legislative Reference Bureau
641 Main Capitol Building
Harrisburg, PA 17120
(717)783-1531
kmandalia@palrb.us

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Independent Regulatory
Review Commission

From: Hardt, Kelsey <khardt@pa.gov>
Sent: Monday, November 28, 2022 9:03 AM
To: Bulletin <bulletin@palrb.us>
Subject: DELIVERY: Regulation 16A-5143
Importance: High

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- 16A-4351: Licensure By Endorsement And Reactivation

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