

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION
RECEIVED**

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

(1) Agency
Department of State, Bureau of Professional and Occupational
Affairs, State Board of Optometry

APR 14 2023

(2) Agency Number: 16A
Identification Number: 5215

Independent Regulatory
Review Commission
IRRC Number: 3369

(3) PA Code Cite:
49 Pa. Code §§ 23.1, 23.11, 23.21, 23.26, 23.81—23.83 and 23.111—23.118

(4) Short Title: Child Abuse Reporting Requirements

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

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Secondary Contacts: Shawn J. Jayman, Counsel, State Board of Optometry, Department of State, phone (717) 783-7200; P.O. Box 69523, Harrisburg, PA 17106-9523; fax (717) 787-0251; shjayman@pa.gov.

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

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation

- Emergency Certification Regulation;
- Certification by the Governor
- Certification by the Attorney General

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

This rulemaking is needed to update the Board's existing regulations on the subject of child abuse reporting to be consistent with amendments to the Child Protective Services Law (CPSL) (23 Pa.C.S. §§ 6301-6388), including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) (Act 31) on all health-related boards to require training in child abuse recognition and reporting for licensees who are considered "mandated reporters" under the CPSL.

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

Section 3(b)(14) of the Optometric Practice and Licensure Act (63 P.S. § 244.3(b)(14)) sets forth the Board's general rulemaking authority. Under 23 Pa.C.S. Chapter 63 (relating to Child Protective Services Law) (CPSL), specifically section 6383(b)(2) of the CPSL (relating to education and training), the Board is required to promulgate regulations to implement the mandatory reporting requirements for licensees of the Board.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

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

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

Since 2014, the General Assembly has made numerous amendments to the CPSL, including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) (Act 31) on all health-related Boards to require training in child abuse recognition and reporting for licensees who are considered "mandated reporters" under the CPSL. Section 2 of Act 31 provided that these training requirements would apply to all persons applying for a license, or applying for renewal of a license, on or after January 1, 2015, and were implemented as of that date. These amendments are required to update the Board's existing regulations on the subject of child abuse reporting to comport to the numerous amendments made to the CPSL, and to incorporate the mandatory training requirements required by Act 31.

All applicants and licensees will benefit by receiving mandatory training with regard to their responsibilities under the CPSL, and all Pennsylvania children will benefit from the increased protections provided by the amendments. Licensees will further benefit from regulations that are consistent with the CPSL, as amended, to avoid confusion as to their responsibilities in this area.

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

No. There are no federal standards on the topic.

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

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

In Connecticut, in accordance with CT Statutes Chapter 319a - Child Welfare, Sec. 17a-101, certain health-related professionals, including optometrists, are mandated to report suspected child abuse or neglect to the Department of Children and Families' Child Abuse and Neglect Careline or a law enforcement agency. Any mandated reporter who fails to make a required report is guilty of a class A misdemeanor, except that person is guilty of a class E felony if the violation is a subsequent violation, the violation was willful or intentional or due to gross negligence, or the person had actual knowledge that a child was abused or neglected. Connecticut requires an oral or electronic report to be made by a mandated reporter as soon as practicable but no later than 12 hours after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent

risk of serious harm. If an oral report is made, the mandated reporter shall submit a written or electronic report within 48 hours after making the oral report. Mandated reporters who make a good faith report are protected from retaliation by an employer and are immune from any liability, civil or criminal, which might otherwise arise from or be related to the actions taken by the mandated reporter. Free training is available to all mandated reporters.

In Delaware, under Title 16 Del. Code § 903, all persons are required to make an immediate report to the Department of Services for Children, Youth and their Families when they know of, or suspect, child abuse or neglect and to follow up with any required written reports. Delaware now accepts electronic reports at the Delaware Division of Family Services Reporter Portal but can also accept oral reports to their telephone hotline. Mandatory reporter training is available through the Office of the Child Advocate. Individuals who fail to report child abuse or neglect may be liable to a civil penalty of not to exceed \$10,000 for a first offense, or not to exceed \$50,000 for subsequent violations.

In Maine, child abuse or neglect reports must be made immediately by telephone to the Department of Health and Human Service, Office of Child and Family Services' hotline. Under Title 22 of the Maine Revised Statutes § 4011-A, mandated reporters include various types of health care practitioners, however optometrists are not specifically enumerated, so it would appear that they are considered permitted reporters. In Maine, mandated reporters must immediately make a report when that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred. The report must be made by telephone immediately and followed by a written report within 48 hours if requested. Mandated reporters may submit reports electronically. In Maine, mandated reporters shall complete mandated reporter training at least once every 4 years.

In Maryland, under MD Family § 5-701—5-715 (relating to child abuse and neglect) all health practitioners (which includes any person who is authorized to practice healing under the Health Occupations Article or § 13-516 of the Education Article) are required to report both orally and in writing any suspected child abuse or neglect. Optometrists are considered health practitioners in that they are authorized to practice healing under the Health Occupations Article at Title 11. In addition, any other person in the state other than a health practitioner, police officer, educator or human service worker who has reason to believe that child has been subjected to abuse or neglect shall notify the local department or the appropriate law enforcement agency. Oral reports must be made immediately, and written reports must be made within 48 hours of contact in which the disclosure of the suspected abuse or neglect was given. All reports of abuse must be made to the local departments of social services and the appropriate law enforcement agency. If a licensee knowingly fails to report suspected abuse of a child, they may be subject to professional sanctions by licensing boards. Under MD Criminal Code § 3-606.2, a mandated reporter having actual knowledge of abuse or neglect who knowingly fails to make a required report commits a misdemeanor and is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 3 years, or both. Anyone making a good faith report is immune from civil liability and criminal penalty. While not required, mandated reporter training is available.

In Massachusetts, under Massachusetts General Law Annotated 119 § 21 (relating to definitions applicable to sections 21 to 51H), various health care practitioners, including optometrists, are considered mandated reporters. Under MGLA 119 § 51A, mandated reporters must report to the Department of Children and Families when they suspect that a child is being abused or neglected immediately by telephone to the DCF area office that services the city or town where the child lives or the Child-at-Risk Hotline. As a mandated reporter, one must also mail or fax a written report to the Department within 48 hours of making the oral report. Mandated reporters are required to report any

physical or emotional injury resulting from abuse; any indication of neglect, including malnutrition; any instance in which a child is determined to be physically dependent upon an addictive drug at birth; any suspicion of child sexual exploitation or human trafficking; or death as a result of abuse or neglect. Failure to make required reports subjects the mandated reporter to fines up to \$1,000 for a first offense. A mandated reporter that willfully fails to report child abuse or neglect that results in serious bodily injury or death is subject to a fine of up to \$ 5,000 and 2 ½ years in jail and be reported to the person's professional licensing board. All mandated reporters who are professionally licensed are required to complete training to recognize and report child abuse and neglect. DCF has an online training video available for mandatory reporters.

Similarly, in New Hampshire, under N. H. Rev. Stat. § 169-C:29 (relating to persons required to report), various health care practitioners, including optometrists, as well as any other person having reason to suspect that a child has been abused or neglected are considered mandated reporters. Mandated reporters are required to report suspected child abuse or neglect to the Central Intake Unit of the New Hampshire Division for Children, Youth and Families. An oral report shall be made immediately by telephone and followed within 48 hours by a report in writing, if requested. Individuals who make a good faith report have immunity from civil and criminal liability; and privileged communications between a professional and their patient/client is does not apply and does not excuse the failure to report. Failure to report is a misdemeanor. Training on the reporting requirements is not required.

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

In New York, under NY Soc Serv § 413, various health care practitioners, including optometrists, are considered mandated reporters. Mandated reporters are required by law to report suspected abuse or maltreatment to the New York Statewide Central Register of Child Abuse and Maltreatment whenever they have reasonable cause to suspect that a child coming before them in their professional or occupational capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other persons legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child. The law also assigns civil and criminal liability to those professionals who do not comply with their mandated reporter duties; including being criminally charged with a Class A misdemeanor, being subject to criminal penalties, and being sued in a civil court for monetary damages for any harm causes by the failure to report. Reasonable cause to suspect child abuse or maltreatment means that, based on one's observations, professional training and experience, a licensee believes the parent or person legally responsible for a child has harmed that child or placed that child in imminent danger or harm. In addition, New York requires individuals, when applying initially for licensure, to complete 2 hours of coursework or training in the identification and reporting of child abuse and maltreatment. This is a one-time requirement and once taken does not need to be completed again. The New York State Education Department, Office of the Professions oversees the training requirements for mandated reporters.

In Ohio, under Ohio R. C. § 2151.421 (relating to persons required to report injury or neglect; procedures on receipt of report), all health care professionals and practitioners of a limited branch of medicine are considered mandated reporters. The definition of "health care professional" in Ohio includes optometrists. Mandated reporters are required to report if a child under the age of 18 or a mentally retarded, developmentally disabled, or physically impaired person under the age of 21 has been abused or neglected. A licensee making a report shall make it to the Ohio Department of Job and Family Services hotline, or to the public children services agency or municipal or county peace officer in the county in which the child resides. The report must be made immediately by telephone or in person and must be followed by a written report if requested. Failure to report is generally a misdemeanor. Additionally, a mandated reporter who fails to make a required report is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made. There does not appear to be a mandatory training requirement in Ohio. All other persons are considered permissive reporters and may make a report if they know, or have reasonable cause to suspect, that a child under eighteen years of age or a person under 21 years of age with a developmental disability or physical impairment has suffered or faces a threat of abuse.

In Virginia, under Title 63.2 of the Code of Virginia § 63.2-1509, any person licensed to practice any of the healing arts must report if they have reason to suspect a child is an abused or neglected child immediately to the local department of the county or city where the child resides, where the abuse or neglect is believed to have occurred, or to the Department of Social Service's toll-free child abuse and neglect hotline. "Healing arts" is defined as the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities." Thus, an optometrist would be a mandated reporter in Virginia. A person making a good faith report or testifying in any judicial proceeding arising from such report is immune from criminal or civil liability or administrative penalty or sanction. Any person required to file a report who fails to do so, shall be fined not more than \$500 for the first failure and for any subsequent failures not more than \$1,000 and may be charged with a Class 1 misdemeanor. Mandated reporter training on recognizing and reporting child abuse and neglect is available on the Virginia Department of Social Services website.

In West Virginia, under W.Va. Code § 49-2-803, any medical, dental or mental health professional is a mandated reporter and is required to report suspected child abuse or neglect. The term "medical professional" is undefined, but the Board believes that the term includes optometrists. When a licensee suspects that a child is being abused or neglected, or observes a child being subjected to conditions that are likely to result in abuse or neglect, or believes that a child has suffered serious physical abuse, sexual abuse or sexual assault, a report must be made to the Child Protective Services unit in the county office of the Department of Health and Human Resources where the licensee is located or the State Police or other law enforcement agency that has jurisdiction to investigate the report. The Department of Health and Human Resources maintains a 24-hour toll free reporting hotline. Reports must be made immediately by phone and followed up within 48 hours by a written report, if requested. Anyone making a good faith report is immune from civil or criminal liability. Failure to file a required report is a misdemeanor, punishable by imprisonment up to 90 days, a fine of up to \$5,000, or both. There does not appear to be a mandatory training requirement.

Based on these requirements from other states, the Board believes that this regulation will not place Pennsylvania at a competitive disadvantage.

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

No. The regulation does not affect any other regulations of the agency or other state agencies. However, there are additional boards that will be promulgating similar regulations in the upcoming months.

(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 began discussions relating to necessary updates to its regulations in 2014 due to recent amendments to the CPSL. At its May 12, 2016, board meeting, the Board voted to release an exposure draft of an earlier version of this proposed rulemaking to interested parties and stakeholders. See attached list. No comments were received. In addition, the Board discusses its regulatory proposals at regularly scheduled public meetings of the Board. Representatives of the professional associations representing the regulated community routinely attend those meetings. The rulemaking was discussed at Board meetings beginning at the May 15, 2014, meeting and culminating in the Board's meeting on August 20, 2020, at which time the Board voted to move forward and promulgate the proposed rulemaking. Representatives of the Pennsylvania Optometric Association were present during these meetings.

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

All licensees of the Board will be affected by the regulation, including those that are or work for small businesses. At the present time, there are approximately 2,930 optometrists licensed by the Board. In addition, all applicants for licensure would be affected by the mandatory training requirements set forth in the proposed regulation as required under section 6383(b)(3)(i) of the CPSL. The Board currently processes an average of approximately 165 initial licensure applications per year.

According to the Pennsylvania Department of Labor and Industry in 2020 (the most recent year for which data is available), 44% of optometrists work in offices of other health care providers, while 22% work in offices of physicians. Approximately 20% report that they are self-employed and therefore, work in offices of optometrists. In addition, 7% of optometrists work in health and personal care stores. The remainder work for the federal government; in colleges, universities and professional schools; outpatient care centers; other ambulatory health care services; and specialty hospitals.

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which 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 2022 NAICS standards to the types of businesses where optometrists may work, offices of optometrists (NAICS code #621320) would be considered a small business if their average annual receipts are \$8.0 million or less. The small business threshold for offices of physicians (NAICS #621111) is \$14.0 million or less in average annual receipts. For offices of other miscellaneous health care practitioners (NAICS # 621399), a small business is one with average annual receipts of \$9.0 million or less. Health and personal care stores (NAICS #456199) are considered small businesses if they have average annual receipts of \$8.5 million or less. The small

business threshold for colleges, universities and professional schools (NAICS #611310) is \$30.5 million or less in average annual receipts. For specialty hospitals (NAICS #622310), a small business is one with \$41.5 million or less in average annual receipts, and outpatient care centers (NCAICS #621498) would be a small business if they have average annual receipts of \$22.5 million or less.

Based upon this variety of employers, the Board believes that most optometrists in Pennsylvania are employed in small businesses. 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 or work for small businesses as that term is defined by the SBA and Pennsylvania's Regulatory Review Act. Those licensees that are self-employed are likely small businesses that would be impacted by the costs associated with this proposed rulemaking. For those licensees who are employees of small businesses, whether these small businesses will be impacted by the regulations depends on whether the businesses would pay costs associated with obtaining the initial and continuing education relating to child abuse recognition and reporting for employees. Because these costs are associated with individuals applying for initial licensure or licensure renewal, any business (small or otherwise) could avoid these costs by requiring employees to bear the costs associated with compliance.

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

All licensees of the Board will be affected by the regulation, including those that are or work for small businesses. At the present time, there are approximately 2,930 optometrists licensed by the Board. In addition, all applicants for a license issued by the Board would be affected by the mandatory training requirements set forth in the proposed regulation as required under section 6383(b)(3)(i) of the CPSL. The Board currently processes an average of approximately 165 initial licensure applications a year.

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

The Board does not anticipate significant fiscal impact or paperwork requirements relating to the rulemaking. Because licensees of the Board are already required to complete mandatory continuing education, and the 2 hours of continuing education in child abuse recognition and reporting are incorporated in the existing requirement, there would be no increased burden. Only applicants for licensure would incur an additional requirement, and because there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal, ranging in cost from \$0 to \$100 per course. Because all approved Act 31 training providers are required to report attendance or participation electronically, there are no additional paperwork requirements imposed on licensees or applicants. In addition, the implementation of an electronic reporting system for mandatory reporters of suspected child abuse under the CPSL by the Department of Human Services has decreased the paperwork requirements related to the mandatory reporting requirements. The regulation benefits all licensees, by providing clarity regarding the reporting obligations; and benefits all Pennsylvania children by the increased protections provided.

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

Because any costs or adverse effects are minimal, the benefits to the regulated community of clarity regarding their reporting obligations and the increased protections to Pennsylvania children far outweigh the costs. Licensees and applicants can minimize or eliminate the costs associated with the mandated training by choosing to complete one of the free or low-cost options.

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

There should be no additional cost to most existing licensees to comply with the updated regulations to complete the 2 hours of continuing education, as these are not additional requirements, but are incorporated as part of their existing continuing education already required as a condition of biennial renewal. In fact, the new electronic reporting system will reduce any paperwork requirements. The only individuals who would incur additional costs are applicants for licensure, who need to complete 3 hours of approved training in child abuse recognition and reporting as a condition of licensure. However, because there are numerous low-cost and free options available, this cost to the individual is minimal. Additionally, as more and more schools are submitting their courses for approval, more and more applicants will have completed the required training as part of their professional education and will incur no additional costs. At the present time, the cost for the required training ranges from free to \$100 per course.

For purposes of this rulemaking, the Board is assuming that most applicants would choose a free or low-cost option and estimates a cost of no more than \$25 each on average. At an average of 165 applications per year, the cost to applicants is estimated at \$ 4,125 annually. However, these costs could be eliminated by choosing to complete one of the free options.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

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

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

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

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

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

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

No forms are required for implementation of this regulation, as completion of the required child abuse training is being reported electronically to the Bureau by the course provider.

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

N/A

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

	Current FY 2022-23	FY +1 2023-24	FY +2 2024-25	FY +3 2025-26	FY +4 2026-27	FY +5 2027-28
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community	\$4,125	\$4,125	\$4,125	\$4,125	\$4,125	\$4,125
Local Government						
State Government	\$90,000	\$90,000	\$90,000	\$90,000	\$90,000	\$90,000
Total Costs	\$94,125	\$94,125	\$94,125	\$94,125	\$94,125	\$94,125
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(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 (actual)	Current FY 2022-2023 (budgeted)
State Board of Optometry	\$218,664.97	\$231,300.46	\$183,571.89	\$212,000.00

(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.

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

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

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

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions have been considered. The Board believes that these regulations provide the least burdensome means of complying with the CPSL.

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

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

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

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

No data is the basis for this regulation.

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

- A. The length of the public comment period: 30 days.
- B. The date or dates on which any public meetings or hearings will be held: The Board considers its regulatory proposals at regularly scheduled public meetings, a schedule of which is included in item (30) below.
- C. The expected date of delivery of the final-form regulation: Summer 2023
- D. The expected effective date of the final-form regulation: Upon publication of the final-form rulemaking in the *Pennsylvania Bulletin* – expected in Summer of 2023

E. The expected date by which compliance with the final-form regulation will be required: Upon notice or publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

F. The expected date by which required permits, licenses or other approvals must be obtained:

N/A

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

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings. The Board will meet on the following dates in 2023: February 2, May 11, August 24 and December 7, 2023.

More information can be found on the Department's website at www.dos.pa.gov.

State Board of Optometry Interested Parties
(Listed by organization in alphabetical Order)

<u>Association or Group Name</u>	<u>Email Address</u>	<u>Individual Name and/or Title</u>
Pennsylvania Academy of Ophthalmology	pao@pamedsoc.org	777 East Park Drive, Harrisburg, PA 17111 (717) 558-7750
Pennsylvania Assn of Medical Staff Services	msell@qsrh.org	Marianne Sell, CPMSM--Webmaster and Public Relations Good Shepherd Rehabilitation Network 850 S. Fifth Street Allentown, PA 18013 Phone: (610) 776-3577
Pennsylvania College of Optometry	Lisa@salus.edu	Lisa Lonie, Executive Secretary for the President 8360 Old York Road Elkins Park, PA 19027 (800) 824-6262
	LCasser@salus.edu	Dr. Linda Casser, Dean, Optometry School
Pennsylvania Medical Society	agreen@pamedsoc.org	Amy Green, Regulatory Monitoring 777 East Park Drive, Harrisburg, PA 17111 (717) 558-7750
Pennsylvania Optometric Association	mail@poaeyes.org	218 N Third Street, Harrisburg, PA 17101 (717) 233-6833
	Charlie@poaeyes.org	Charles Stuckey, Executive Director, POA

FACE SHEET
FOR FILING DOCUMENTS
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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>Amy M. Elliott (DEPUTY ATTORNEY GENERAL)</p> <p><small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=Pennsylvania Office of Attorney General, ou=Office of Deputy Attorney General, email=ae@attorneygeneral.gov, c=US Date: 2023.01.11 16:59:01-0500</small></p> <p><u>2/1/2023</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>State Board of Optometry</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16A-5215</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u><i>Luanne K. Chubb</i></u> Luanne K. Chubb, O.D., F.A.A.O</p> <p>TITLE: <u>Board Chairperson</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><u><i>Robin Abelson</i></u> BY: _____</p> <p><small>Digitally signed by Robin Abelson DN: cn=Robin Abelson, o=Commonwealth of Pennsylvania, ou=DCI, email=robin@dcir.com, c=US Date: 2023.01.19 16:23:07-0500</small></p> <p><u>1/5/2023</u> DATE OF APPROVAL</p> <p>(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>
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NOTICE OF PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF OPTOMETRY

TITLE 49 PA CODE CHAPTER 23

§§ 23.1, 23.11, 23.21, 23.26, 23.81—23.83, and 23.111—23.118

CHILD ABUSE REPORTING REQUIREMENTS

The State Board of Optometry (Board) proposes to amend §§ 23.1, 23.11, 23.21, 23.26, 23.81—23.83, 23.111—23.116, and add §§ 23.117 and 23.118 (relating to child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process) to read as set forth in Annex A.

Effective date

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

Statutory authority

Section 3(b)(14) of the Optometric Practice and Licensure Act (63 P.S. § 244.3(b)(14)) sets forth the Board’s general rulemaking authority. Under 23 Pa.C.S. Chapter 63 (relating to Child Protective Services Law) (CPSL), specifically section 6383(b)(2) of the CPSL (relating to education and training), the Board is required to promulgate regulations to implement the mandatory reporting requirements for licensees of the Board.

Background and purpose

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

Description of the proposed amendments

Initially, the Board proposes to amend § 23.1 (relating to definitions) to update the definitions of terms used in the CPSL. Specifically, the Board finds it necessary to define the terms “bodily injury,” “child,” “parent,” “program, activity or service” and “serious physical neglect” and to amend the definitions of “child abuse,” “perpetrator,” “person responsible for the child’s welfare,” “recent acts or omissions” and “sexual abuse or exploitation” to comport with amendments made to the CPSL. The Board has also added a definition for the terms “Bureau” and “mandated reporter” for ease of reference. The Board also proposes to delete definitions for “individual residing in the same home as the child” and “serious physical injury” because these terms have been deleted from the CPSL. Additionally, the Board proposes to amend, where necessary throughout the proposal, the name of the Department of Public Welfare, as the name of that agency has changed to the Department of Human Services.

The Board proposes to amend §§ 23.11 and 23.21 (relating to qualifications for license by examination; and reciprocal application) to incorporate the requirement that applicants for

licensure complete at least 3 hours of approved training in child abuse recognition and reporting as required under section 6383(b)(3)(i) of the CPSL. The Board also proposes to amend § 23.26 (relating to volunteer license) to incorporate the mandatory training requirements for applicants for a volunteer license in subsection (c) and for biennial renewal of a volunteer license in subsection (e).

The Board is also proposing to amend the Board's continuing education regulations at §§ 23.81—23.83 (relating to coverage; continuing education hour requirements; and continuing education subject matter) to incorporate the 2 hours of mandatory continuing education in child abuse recognition and reporting required under section 6383(b)(3)(ii) of the CPSL. Specifically, § 23.81 would be amended to make it clear that applicants for reactivation are required to complete at least 2 hours of approved courses in child abuse recognition and reporting, and to provide for gender neutrality. Section 23.82 would be amended to incorporate the requirement that licensees seeking to renew a license complete at least 2 hours of approved courses in child abuse recognition and reporting as required under section 6383(b)(3)(ii) of the CPSL. Finally, § 23.83 would be amended to clarify that, notwithstanding the existing approval process for Board approval of optometric continuing education, courses in child abuse recognition and reporting are an exception and must be approved by the Bureau, in consultation with the Department of Human Services, as required by the CPSL in accordance with § 23.118 (relating to child abuse recognition and reporting course approval process).

The Board next proposes comprehensive amendments to the child abuse reporting requirements. First, the Board is proposing to amend § 23.111 (relating to suspected child abuse—mandated reporting requirement) to provide the general rule that all licensed optometrists are considered mandated reporters, and to update the mandated reporting requirements and reporting procedures as set forth in sections 6311 and 6313 of the CPSL (relating to persons required to report suspected child abuse; and reporting procedure), as amended. The Department of Human Services has implemented an electronic reporting process for mandated reporters, and the Board finds it necessary to propose amendments to § 23.112 (relating to photographs, medical tests and X-rays of child subject to report) to set forth the requirement to submit documentation relating to photographs, medical test and X-rays to the county children and youth social service agency within 48 hours of making an electronic report in accordance with section 6314 of the CPSL (relating to photographs, medical tests and X-rays of child subject to report), and to include the requirement that medical summaries or reports of the photographs, X-rays and relevant medical tests be made available to law enforcement officials in the course of investigation cases under section 6340(a)(9) or (10) of the CPSL (relating to release of information in confidential reports).

The Board is proposing to amend § 23.113 (relating to suspected death as a result of child abuse—mandated reporting requirement) to incorporate an amendment made to section 6317 of the CPSL (relating to mandatory reporting and postmortem investigation of deaths) to permit such a report to be made to the medical examiner of the county where the death occurred, or of the county where the injuries were sustained. Further, the Board is proposing to amend and restructure § 23.114 (relating to immunity from liability) to incorporate amendments made to section 6318 of the CPSL (relating to immunity from liability) in subsection (a) and to clarify in subsection (b) that the Board will uphold the same good faith presumption in any disciplinary proceedings that may be brought for violations of the duties imposed upon licenses that are set forth in §§ 23.111—

23.113. The Board also proposes to amend § 23.115 (relating to confidentiality—waived) to incorporate the provisions of section 6311.1 of the CPSL (relating to privileged communications). Likewise, the Board proposes to amend § 23.116 (relating to noncompliance) to update the criminal penalties for failure to make a report or referral required by the CPSL, which have been increased in recent years from a summary offense for a first violation and a misdemeanor for a second or subsequent violation to a misdemeanor of the second degree for most offenses, except under certain enumerated circumstances where the offense is graded as a felony.

The Board proposes to add two sections to incorporate the mandatory training requirements set forth in section 6383(b)(3)(i) and (ii) of the CPSL. Section 23.117 (relating to child abuse recognition and reporting—mandatory training requirement) would set forth the requirement that all individuals applying to the Board for an initial license shall complete at least 3 hours of approved training in child abuse recognition and reporting in subsection (a); and that all licensees seeking renewal are required to complete at least 2 hours of approved continuing education in child abuse recognition and reporting as a requirement of renewal in subsection (b). The Board would also provide notice that these 2 hours of training would be accepted as a portion of the total continuing education required for biennial renewal, and not an additional requirement, as provided in section 6383(b)(3)(ii) of the CPSL. The Board is also clarifying that a license will not be issued or renewed unless the Bureau has received an electronic report from an approved course provider documenting the attendance or participation by the licensee in an approved course or the applicant or licensee has obtained an exemption under subsection (c). The proposal would also clarify that for purposes of renewal, the course must be completed within the applicable biennial renewal period, and that if a licensee also holds a license from another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

Subsection (c) would include the process for applying for an exemption from the mandatory training requirements as set forth in section 6383(b)(4) and (6) of the CPSL, for individuals who have already completed similar training or who otherwise should be exempt from the training requirements. Specifically, paragraph (1) provides an exemption for individuals who have already completed similar training required under section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6). Paragraph (2) provides an exemption for individuals who have completed comparable training under section 6383(c) of the CPSL. The Board notes that section 6383(b)(4)(ii)(B) of the CPSL provides an exemption for individuals who have already completed child abuse recognition training required by the Public Welfare Code (now known as the Human Services Code), and the training was approved by the Department of Human Services. However, the Department of Human Services has confirmed that there is no provision in the Human Services Code that requires such training. Instead, section 6383(c) of the CPSL (which is in the Domestic Relations Code) sets forth the requirement that certain individuals and entities regulated by the Department of Human Services complete mandated reporter training. Therefore, the Board believes it is appropriate to include an exemption for a licensee who has already completed comparable training in child abuse recognition and reporting required by the Department of Human Services under section 6383(c). For example, if an optometrist happened to be a foster parent and, therefore, was required to complete the training under section 6383(c), there would be no need to repeat the training as a condition of licensure or license renewal under section 6383(b). In addition, section 6383(b)(6) permits the Board to exempt a licensee from the training requirement if the

licensee “submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.” The Board believes that this section also provides authority to the Board to determine that those licensees who are required to complete comparable training under section 6383(c) should be exempt from the training requirement under section 6383(b), provided they submit acceptable documentation to the Board evidencing completion of comparable training. Paragraph (3) would further implement section 6383(b)(6) of the CPSL by providing an exemption for an individual who submits documentation acceptable to the Board demonstrating why they should not be subject to the training or continuing education requirement. The Board also proposes to clarify the standards for granting an exemption under paragraph (3) by explaining that the Board will not grant an exemption based solely upon proof that children are not a part of the applicant’s or licensee’s practice and that each request for an exemption will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education is duplicative or unnecessary under the circumstances.

In subsection (d), the Board proposes to clarify that exemptions which are granted are applicable only to the biennial renewal period in which the exemption is requested. In addition, this subsection will also clarify the process for notifying an applicant or licensee of the Board’s decision to grant or deny the exemption.

Finally, the Board proposes to add § 23.118 (relating to child abuse recognition and reporting course approval process) to set forth the administrative process developed by the Bureau in conjunction with the Department of Human Services, for individuals, entities and organizations to apply for approval to deliver the training required under section 6383(b)(3) of the CPSL. Subsection (a) requires the individual, entity or organization to apply simultaneously to DHS and the Bureau. Subsection (b) sets forth the required course materials to be submitted. In addition to the materials to be submitted relating to the content of the training itself for review by DHS, the Bureau has established a requirement that to be approved to provide the mandatory training in child abuse recognition and reporting, an individual, entity or organization must be able to report participation or attendance electronically to the Bureau. In this manner, the completion of the training is automatically imported into the individual’s record with the Board at the time the course is completed. Then, at the time of application or renewal, the system verifies that the training was completed as required prior to issuing or renewing the license. Thus, the Board will not issue or renew a license unless an electronic report has been received from an approved course provider or the individual has received an exemption from the mandatory training requirement. Finally, subsection (c) clarifies that the Bureau will notify the individual, entity or organization in writing upon approval of the course and will post the list of approved providers on the Bureau’s and the Board’s website.

Fiscal Impact and Paperwork Requirements

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these amendments. Because licensees are already required to complete mandatory continuing education, and these 2 hours in child abuse recognition and reporting are incorporated in the existing requirement, there would be no increased burden. Only applicants for licensure would incur an additional requirement, and as there are many low-cost and free options available

to complete the training, the Board anticipates this impact to also be minimal. Because all approved training providers of the mandatory training in child abuse recognition and reporting are required to report attendance or participation electronically, there are no additional paperwork requirements imposed on licensees. In addition, the implementation of an electronic reporting system for mandated reporters of child abuse under the CPSL by the Department of Human Services has decreased the paperwork requirements related to the mandatory reporting requirements.

Sunset Date

The Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 14, 2023, the Board submitted a copy of this proposed rulemaking and a copy of a regulatory analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) that 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.

Public Comment

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed rulemaking to Regulatory Counsel, Department of State at P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail to RA-STRegulatoryCounsel@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be identified as pertaining to rulemaking 16A-5215 (Child Abuse Reporting Requirements).

Luanne K. Chubb, O.D., F.A.A.O.
Chairperson

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 23. STATE BOARD OF OPTOMETRY

GENERAL PROVISIONS

§ 23.1 Definitions.

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

Act—The Optometric Practice and Licensure Act (63 P.S. §§ 244.1—244.12).

Board—The State Board of Optometry of the Commonwealth.

Bodily injury—Impairment of physical condition or substantial pain.

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

Child—An individual under 18 years of age.

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

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

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

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

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

Intentionally, knowingly or recklessly doing any of the following:

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

- (E) Interfering with the breathing of a child.
- (F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
- (G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
 - (I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), when the victim of the sexual offense was under 18 years of age when the crime was committed.
 - (II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
 - (III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
 - (IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).
- (ix) Causing the death of the child through any act or failure to act.
- (x) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

ChildLine—An organizational unit of the Department of [Public Welfare] Human Services, which operates a 24-hour a day Statewide [toll free] toll-free telephone system for receiving reports of

suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Clinical skills assessment examination—A clinical skills competency examination developed, prepared, administered and scored by the NBEO, which the Board adopts as the State clinical examination for licensure.

* * * * *

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

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

NBEO—The National Board of Examiners in Optometry.

National Board Examination—A written academic examination developed, prepared, administered and scored by the NBEO, which the Board adopts as the National uniform written examination for licensure.

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

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

The following apply:

(i) This term includes only the following:

(A) A parent of the child.

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

- (C) A paramour or former paramour of the child’s parent.
 - (D) An individual 14 years of age or older who is a person responsible for the child’s welfare or who has direct contact with children as an employee of child-care services, a school or through a program, activity or service.
 - (E) An individual 14 years of age or older who resides in the same home as the child.
 - (F) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.
 - (G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).
- (ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:
- (A) A parent of the child.
 - (B) A spouse or former spouse of the child’s parent.
 - (C) A paramour or former paramour of the child’s parent.
 - (D) A person responsible for the child’s welfare who is 18 years of age or older.
 - (E) A person 18 years of age or older who resides in the same home as the child.

Person responsible for the child’s welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. [The term does not include a person who is employed by or provides

services or programs in a public or private school, intermediate unit or area vocational-technical school.]

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

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

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

Retired practitioner—One who is no longer engaged in the practice of optometry as defined in section 2 of the act (63 P.S. § 244.2; see definition of “practice of optometry”).

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

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

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

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

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

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

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

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

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

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

- (C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
- (D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.
- (ii) Any of the following offenses committed against a child:

 - (A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).
 - (B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
 - (C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
 - (D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).
 - (E) Institutional sexual assault as defined in 18 Pa.C.S. 3124.2 (relating to institutional sexual assault).
 - (F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
 - (G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).
 - (H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
 - (I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
 - (J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

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

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

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

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

* * * * *

LICENSE BY EXAMINATION

§ 23.11. Qualifications for license by examination.

To obtain a license by examination, a candidate shall meet the following requirements:

- (1) A Doctor of Optometry degree from an accredited optometric educational institution in the United States or Canada. A graduate of an unaccredited school of optometry shall also meet the requirements of § 23.14 (relating to graduates of unaccredited schools).
- (2) Passing scores on Parts I, II Stage a and II Stage b of the National Board Examination, which the Board adopts as the written examination for licensure.
- (3) Satisfaction of the general qualifications of section 4 of the act (63 P.S. § 244.4) and of this chapter.
- (4) Passing scores of the Clinical Skills Assessment Examination. A candidate for license by examination will not be eligible to sit for the Clinical Skills Assessment

Examination unless the candidate has met the requirements of [this section] paragraphs

(1)—(3).

(5) Completion of at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 23.117(a) (relating to child abuse recognition and reporting—mandatory training requirement).

LICENSE BY RECIPROCITY AND INTERSTATE CERTIFICATION

§ 23.21. Reciprocal application.

(a) An applicant for licensure by reciprocity to practice optometry in this Commonwealth shall submit or cause to be submitted the following to the Board:

(1) A completed application which has been filed with the Board together with the fee required by § 23.91 (relating to fees)[,in the form of a check or money order, made payable to “Commonwealth of Pennsylvania—OE.”]

(2) A certificate of preprofessional education issued by the Department, showing that the preliminary education requirements are satisfied.

(3) A transcript of subjects and grades from the college or school of optometry from which the applicant has graduated.

(4) Proof of having completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 23.117(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(b) Any school or college of optometry from which the applicant for reciprocity has graduated shall be one approved by the Board at the time [he was] the applicant graduated.

- (c) An applicant for licensure by reciprocity who is a graduate of an unaccredited school shall comply with the requirements of § 23.14 (relating to graduates of unaccredited schools).

VOLUNTEER LICENSE

§ 23.26. Volunteer license.

* * * * *

- (c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide, or cause to be provided:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice optometry exclusively:

- (i) Without personal remuneration for professional services.
- (ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(3) Evidence of completion of at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 23.117(a) (relating to child abuse recognition and reporting—mandatory training requirement).

- (d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the licensee shall notify the Board of any change in clinic or volunteer status within 30 days of the date of a change, or at the time of renewal, whichever occurs first.

(c) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license, including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 23.117(b) (relating to child abuse recognition and reporting—mandatory training requirement).

(2) The applicant shall be exempt from payment of the biennial renewal fee of § 23.91 (relating to fees).

* * * * *

CONTINUING EDUCATION

§ 23.81. Coverage.

(a) This section and §§ 23.82—23.89 apply to all optometrists who are required to be licensed under the act; however, [any] an applicant, upon successful completion of the optometric examination for licensure, shall be exempt from the requirements of continuing education for only the biennial period during which the applicant successfully completed [such] the examination if the applicant takes [such] the examination within [two] 2 years from [his] the applicant's graduation from an accredited college or school of optometry.

(b) [Any] An individual who is in an inactive status or is a retired practitioner is not required to meet the continuing education requirements as outlined in this section and §§ 23.82—23.89 except to the extent that, upon application for reactivation, [such] the individual shall be required to show proof of continuing education for the biennial period immediately preceding [such] the

request for reactivation, including at least 2 hours of approved courses in child abuse recognition and reporting as required under § 23.117(b).

§ 23.82. Continuing education hour requirements; continuing education reporting; audit and enforcement.

(a) An applicant for biennial license renewal or reactivation of license is required to complete, during the 2 years immediately preceding renewal or reactivation, a minimum of 30 hours of continuing education, including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 23.117(b) (relating to child abuse recognition and reporting—mandatory training requirement). A licensee whose license is not renewed by the expiration of the biennial renewal period may not engage in the practice of optometry until the continuing education requirements are satisfied and the license has been renewed or reactivated.

(1) For licensees certified in accordance with 4.1 of the act (63 P.S. § 244.4a), regarding certification to prescribe and administer pharmaceutical agents for therapeutic purposes, at least 6 of the required 30 hours shall concern the prescription and administration of pharmaceutical agents for therapeutic purposes.

(2) For licensees certified in accordance with section 4.2 of the act (63 P.S. § 244.4b), regarding additional requirements to prescribe and administer pharmaceutical agents for the treatment of certain types of glaucoma, at least 4 of the 30 hours shall concern the prescription and administration of pharmaceutical agents for the treatment of glaucoma. No more than 4 hours taken in the treatment of glaucoma may be applied toward the 6 hours required to maintain therapeutic certification; however, all licensees shall complete at least 30 total hours.

(3) Completion of a Board-approved course described in section 4.1(a)(2) of the act or continuing education described in section 4.2 of the act shall satisfy the continuing education requirement for the biennial renewal period in which it is completed including the 6-hour requirement in therapeutics and the 4-hour requirement in glaucoma.

(b) Licensees shall certify completion of the required continuing education on the biennial renewal application as a condition of renewal. False certifications will be ground for disciplinary action under section 7(a)(3) of the act (64 P.S. § 244.7(a)(3)).

* * * * *

§ 23.83. Continuing education subject matter.

(a) [Acceptable] Except as provided in subsection (d), acceptable courses of study are limited to those pertaining to the use or means or methods for examination, diagnosis and treatment of conditions of the human visual system and may include examination for and adapting and fitting of all types of lenses. The Board will not accept courses of study which do not relate to the actual practice of optometry such as studies in office management and financial procedures.

(b) Courses that will meet the requirements for certification in the prescription and administration of pharmaceutical agents for therapeutic purposes in accordance with section 4.1 of the act (63 P.S. § 244.4a) shall concern the treatment and management of ocular or oculo-systemic disease.

(c) Courses that will meet the requirements for certification to treat glaucoma in accordance with section 4.2 of the act (63 P.S. § 244.4b) shall concern the treatment and management of primary open angle glaucoma, exfoliation glaucoma and pigmentary glaucoma.

(d) At least 2 hours of continuing education shall be completed in child abuse recognition and reporting as required under 23 Pa.C.S. § 6383(b)(3)(ii) in accordance with § 23.117(b) (relating to

child abuse recognition and reporting—mandatory training requirement). Notwithstanding the requirements for Board approval of optometric continuing education programs in §§ 23.84—23.86 (relating to provider and program registration; standards for providers; and sources of continuing education hours), courses in child abuse recognition and reporting must be approved in accordance with § 23.118 (relating to child abuse recognition and reporting course approval process).

CHILD ABUSE REPORTING REQUIREMENTS

§ 23.111. Suspected child abuse—mandated reporting requirements.

(a) *General rule.*

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

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

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

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

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

(2) Nothing in this subsection shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this subsection shall require the mandated reporter to take steps to identify the person responsible for the child abuse, if unknown, in order for the mandated reporter to make a report of suspected child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* [Optometrists who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the Board regulated practitioner, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance

with subsections (a), (c) and (d)] Whenever an optometrist is required to make a report under subsection (a) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that optometrist shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

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

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

(2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.]

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

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

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

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

(d) *Written or electronic reports.* [Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available] A written or electronic report of suspected child abuse, shall include the following information, if known:

- (1) The names and addresses of the child, [and] the child's parents [or] and any other person responsible for the [care of the child, if known] child's welfare.
- (2) Where the suspected child abuse occurred.
- (3) The age and sex of [the subjects] each subject of the report.
- (4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or [siblings] any sibling of the child.
- (5) The name and relationship of [the persons] each individual responsible for causing the suspected abuse[,if known,] and any evidence of prior abuse by [those persons] each individual.
- (6) Family composition.
- (7) The source of the report.
- (8) The name, telephone number and e-mail address of the person making the report [and where that person can be reached].
- (9) The actions taken by the [reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner] person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.

(10) Other information which the Department of [Public Welfare] Human Services may require by regulation.

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

§ 23.112. Photographs, medical tests and X-rays of child subject to report.

An optometrist required to report suspected child abuse may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 23.111(c)(2) (relating to suspected child abuse—mandated reporting requirements), or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request. Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6340(a)(9) or (10) (relating to release of information in confidential reports).

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

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

§ 23.114. Immunity from liability.

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

(b) The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of an optometrist's actions [in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs] under §§ 23.211—23.113 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

§ 23.115. Confidentiality—waived.

To protect children from abuse, the reporting requirements of this chapter take precedence over provisions of the act as defined in § 23.1 (relation to definitions) and other ethical principles or professional standards that might otherwise apply to optometrists. In accordance with 23 Pa.C.S. § 6311.1, privileged communications between a mandated reporter and a patient does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse.

§ 23.116. Noncompliance.

(a) *Disciplinary action.* An optometrist who willfully fails to comply with the reporting requirements in §§ 23.111—23.113 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 7(8), (10) and (11) of the act (63 P. S. § 244.7(8), (10) and (11)).

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

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

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

(i) The mandated reporter willfully fails to report.

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

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

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

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

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

§ 23.117. Child abuse recognition and reporting—mandatory training requirement.

(a) Except as provided in subsection (c), individuals applying to the Board for an initial license shall have completed at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services and the Bureau, as set forth in § 23.118 (relating to child abuse recognition and reporter course approval process). The applicant shall certify on the application that the applicant has either completed the required training or has been granted an exemption under subsection (c). The Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance or participation by the applicant or the applicant has obtained an exemption under subsection (c).

(b) Except as provided in subsection (c), licensees seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, at least 2 hours of approved continuing education in child abuse recognition and reporting, as a portion of the total continuing education required for biennial license renewal or reactivation set forth in § 23.82 (relating to credit hour requirements). For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 23.118. The Board will not renew a license unless the Bureau has received an electronic report

from an approved course provider documenting the attendance or participation by the licensee in an approved course within the applicable biennial renewal period or the licensee has obtained an exemption under subsection (c). If a licensee also holds a license issued by another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

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

- (1) The applicant or licensee submits documentation demonstrating that:
 - (i) The applicant or licensee has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).
 - (ii) The training was approved by the Department of Education in consultation with the Department of Human Services.
 - (iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.
 - (iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.
- (2) The applicant or licensee submits documentation demonstrating that:
 - (i) The applicant or licensee has already completed child abuse recognition training required by section 6383(c) of the CPSL (23 Pa.C.S. § 6383(c)).
 - (ii) The training was approved by the Department of Human Services.

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

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

(3) The applicant or licensee submits documentation acceptable to the Board demonstrating why the applicant or licensee should not be subject to the training or continuing education requirement. The Board will not grant an exemption based solely upon proof that children are not a part of the applicant’s or licensee’s practice. Each request for an exemption under this paragraph will be considered on a case-by-case basis. The Board may grant an exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances.

(d) Exemptions granted under subsection (c) are applicable only for the biennial renewal period for which the exemption is requested. If an exemption is granted, the Board will issue or renew the license, as applicable. If an exemption is denied, the Board will email the applicant or licensee a discrepancy notice notifying them of the need to either complete an approved course or, if warranted, to submit additional documentation in support of their request for exemption.

§ 23.118. Child abuse recognition and reporting course approval process.

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

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

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649; or electronically at RA-steps1_course_app@pa.gov.

(b) Submissions shall include the following:

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

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

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

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

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

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

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

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

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

(10) Printed materials used to market the training.

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

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

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

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

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

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

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

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



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

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 214-5702

April 14, 2023

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

Re: Proposed Regulation
State Board of Optometry
16A-5215: Child Abuse Reporting Requirements

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Board of Optometry pertaining to Child Abuse Reporting Requirements.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Luanne Chubb".

Luanne Chubb, OD, Chairperson
State Board of Optometry

LC/ckm
Enclosure

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

From: Smeltz, Jennifer
To: Christman, William
Subject: RE: DELIVERY: Regulations 16A-5215, 16A-6805 (Stefano)
Date: Friday, April 14, 2023 10:50:22 AM

Received.

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

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APR 14 2023

Independent Regulatory
Review Commission

From: Christman, William <wchristman@pa.gov>
Sent: Friday, April 14, 2023 9:09 AM
To: Smeltz, Jennifer <jmsmeltz@pasen.gov>
Subject: DELIVERY: Regulations 16A-5215, 16A-6805 (Stefano)
Importance: High

Ⓢ CAUTION : External Email Ⓢ

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

Please be advised that the State Board of Optometry and the State Board of Examiners in Speech-Language, Pathology & Audiology are delivering the following proposed rulemakings:

- 16A-5215 – Proposed Rulemaking of the State Board of Optometry relating to Child Abuse Reporting Requirements: This proposed rulemaking is required to update the Board’s existing regulations on the subject of child abuse reporting to be consistent with numerous amendments made to the Child Protective Services Law since 2014, including the requirement that all health-related boards require licensees who are considered “mandated reporters” to complete training in child abuse recognition and reporting.
- 16A-6805 – Proposed Rulemaking of the State Board of Examiners in Speech-Language Pathology and Audiology relating to Child Abuse Reporting Requirements: This proposed rulemaking is also required to update the Board’s existing regulations on the subject of child abuse reporting to be consistent with numerous amendments made to the Child Protective Services Law since 2014, including the requirement that all health-related boards require licensees who are considered “mandated reporters” to complete training in child abuse recognition and reporting.
- Unfortunately, at this time the State Board of Examiners in Speech-Language, Pathology & Audiology is unable to deliver the proposed rulemaking 16A-6808 as planned. The Board will arrange another delivery date for this rulemaking in the future.

William Christman | Legal Assistant II
Office of Chief Counsel | Department of State
Governor's Office of General Counsel
P.O. Box 69523 | Harrisburg PA 17106 - 9523
Phone: 717.783.7200 | Fax: 717.787.0251
wchristman@pa.gov | www.dos.pa.gov

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From: Francesca Summa
To: Christman, William; Nicole Sidle
Subject: RE: DELIVERY: Regulations 16A-5215, 16A-6805 (Metzgar)
Date: Friday, April 14, 2023 9:27:27 AM

Independent Regulatory
Review Commission

These have been received, thank you.

-Francesca

From: Christman, William <wchristman@pa.gov>
Sent: Friday, April 14, 2023 9:09 AM
To: Francesca Summa <Fsumma@pahousegop.com>; Nicole Sidle <Nsidle@pahousegop.com>
Subject: DELIVERY: Regulations 16A-5215, 16A-6805 (Metzgar)
Importance: High

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Office of Chief Counsel | Department of State
Governor’s Office of General Counsel
P.O. Box 69523 | Harrisburg PA 17106 - 9523
Phone: 717.783.7200 | Fax: 717.787.0251

From: Orchard, Kari L.
To: Christman, William; Barton, Jamie; Brett, Joseph D.
Subject: Re: DELIVERY: Regulations 16A-5215, 16A-6805 (Burns)
Date: Friday, April 14, 2023 9:50:28 AM

Received.

Kari Orchard

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

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From: Christman, William <wchristman@pa.gov>

Date: Friday, April 14, 2023 at 9:09 AM

To: Orchard, Kari L. <KOrchard@pahouse.net>, Barton, Jamie <JBarton@pahouse.net>, Brett, Joseph D. <JBrett@pahouse.net>

Subject: DELIVERY: Regulations 16A-5215, 16A-6805 (Burns)

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William Christman | Legal Assistant II
Office of Chief Counsel | Department of State

Governor's Office of General Counsel
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From: Rolko, Seth
To: Christman, William; Vazquez, Enid
Subject: RE: DELIVERY: Regulations 16A-5215, 16A-6805 (Boscola)
Date: Friday, April 14, 2023 10:06:15 AM

Independent Regulatory
Review Commission

Received. Thanks.

From: Christman, William <wchristman@pa.gov>
Sent: Friday, April 14, 2023 9:09 AM
To: Rolko, Seth <seth.rolko@pasenate.com>; Vazquez, Enid <Enid.Vazquez@pasenate.com>
Subject: DELIVERY: Regulations 16A-5215, 16A-6805 (Boscola)
Importance: High

■ EXTERNAL EMAIL ■

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

Please be advised that the State Board of Optometry and the State Board of Examiners in Speech-Language, Pathology & Audiology are delivering the following proposed rulemakings:

- 16A-5215 – Proposed Rulemaking of the State Board of Optometry relating to Child Abuse Reporting Requirements: This proposed rulemaking is required to update the Board’s existing regulations on the subject of child abuse reporting to be consistent with numerous amendments made to the Child Protective Services Law since 2014, including the requirement that all health-related boards require licensees who are considered “mandated reporters” to complete training in child abuse recognition and reporting.
- 16A-6805 – Proposed Rulemaking of the State Board of Examiners in Speech-Language Pathology and Audiology relating to Child Abuse Reporting Requirements: This proposed rulemaking is also required to update the Board’s existing regulations on the subject of child abuse reporting to be consistent with numerous amendments made to the Child Protective Services Law since 2014, including the requirement that all health-related boards require licensees who are considered “mandated reporters” to complete training in child abuse recognition and reporting.
- Unfortunately, at this time the State Board of Examiners in Speech-Language, Pathology & Audiology is unable to delivery the proposed rulemaking 16A-6808 as planned. The Board will arrange another delivery date for this rulemaking in the future.

William Christman | Legal Assistant II
Office of Chief Counsel | Department of State
Governor’s Office of General Counsel
P.O. Box 69523 | Harrisburg PA 17106 - 9523
Phone: 717.783.7200 | Fax: 717.787.0251

From: Bulletin
To: [Christman, William](mailto:William.Christman@pa.gov)
Subject: [External] RE: DELIVERY: Regulations 16A-5215, 16A-6805 (LRB)
Date: Friday, April 14, 2023 9:19:16 AM

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Good morning William,

We have received proposed rulemakings 16A-5215 and 16A-6805. One of our staff will be in contact regarding publication in the *Pennsylvania Bulletin*.

Thank you,

Ernest L. Engvall | Legal Assistant
eeingvall@palrb.us | 717.783.1530
Legislative Reference Bureau
Code and Bulletin Office

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APR 14 2023

Independent Regulatory
Review Commission

From: Christman, William <wchristman@pa.gov>
Sent: Friday, April 14, 2023 9:10 AM
To: Bulletin <bulletin@palrb.us>
Subject: DELIVERY: Regulations 16A-5215, 16A-6805 (LRB)
Importance: High

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