

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

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

NOV 06 2023

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Examiners in Speech-Language Pathology and Audiology

Independent Regulatory
Review Commission

(2) Agency Number: 16A

Identification Number: 6805

IRRC Number: 3370

(3) PA Code Cite:

49 Pa. Code §§ 45.12, 45.13, 45.401—45.409 and 45.501—45.503

(4) Short Title: Child Abuse Reporting Requirements

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

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(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 final-form 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 5(2) of the Speech-Language Pathologists and Audiologists Licensure Act (act) (63 P.S. § 1705(2)) 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 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. This final-form rulemaking is required to update the Board's existing regulations on the subject of child abuse reporting to comport with the numerous amendments made to the CPSL.

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 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, however, licensed audiologists and licensed speech-language pathologists do not appear to be expressly included as mandated reporters. As such, they would be considered permissive reporters in the State of Connecticut.

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 audiologists and speech-language pathologists are not expressly named as mandated reporters. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that there has been a suspicious child death.

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. Audiologists and speech-language pathologists are considered health practitioners in that they are authorized to practice healing under the Health Occupations Article at Title 2. 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 are considered mandated reporters, but audiologists and speech-language pathologists are not specifically enumerated, unless they would be considered "hospital personnel engaged in the examination, care or treatment of persons." 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 are considered mandated reporters, and although audiologists and speech-language pathologists are not listed, "any other person having reason to suspect that a child has

been abused or neglected” are also 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 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 are considered mandated reporters, however audiologists and speech-language pathologists are not expressly listed as mandated reporters, unless they qualify as “hospital personnel engaged in the admission, examination, care or treatment of persons.” In addition, under § 414, “[i]n addition to those persons and officials required to report suspected child abuse or maltreatment, any person may make such a report if such person has reasonable cause to suspect that a child is an abused or maltreated child.” 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 caused 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 licensees of the State Speech and Hearing Professionals Board. 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 audiologist and a speech-language pathologist 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 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 audiologists and speech-language pathologists. 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 did not release an exposure draft of this rulemaking as it was merely updating its existing regulations to comport with amendments to the CPSL. However, 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 proposed rulemaking was discussed at Board meetings beginning at the January 30, 2015, meeting and culminating in the Board's meeting on September 4, 2020, at which time the Board voted to move forward and promulgate the rulemaking as proposed. Representatives of the Pennsylvania Speech-Language-Hearing Association and the Pennsylvania Academy of Audiology were present during these meetings.

Notice of the proposed rulemaking was published at 53 Pa.B. 2316 (April 29, 2023). Publication was followed by a 30-day public comment period during which the Board received no public comments. Additionally, there were no comments received from Independent Regulatory Review Commission (IRRC) other than to say that they have no objections, comments or recommendations to offer. IRRC further advised that if the final form rulemaking is delivered without revisions, and the committees do not take any action, it will be deemed approved. The House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not submit comments. The Board met thereafter in public session on September 6, 2023 and voted to promulgate this final-form rulemaking. Representatives of the Pennsylvania Speech-Language-Hearing Association (PSHA) were likewise present at that meeting.

(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 8,788 speech-language pathologists and 1,053 audiologists licensed by the Board. In addition, all applicants for licensure would be affected by the mandatory training requirements set forth in the regulation as required under section 6383(b)(3)(i) of the CPSL. The Board currently processes an average of approximately 951 initial licensure applications per year (based on data from the past five full calendar years – 2018-2022).

According to the Pennsylvania Department of Labor and Industry in 2020 (the most recent year for which data is available), audiologists in Pennsylvania were employed in offices of physicians, elementary and secondary schools, offices of other health care practitioners, health and personal care stores, outpatient care centers, other ambulatory health care services, general medical and surgical hospitals, specialty hospitals and continuing care retirement communities and assisted living facilities for the elderly. Speech-language pathologists work primarily in elementary and secondary schools, offices of other health care providers, home health care services, nursing care facilities (skilled nursing facilities), continuing care retirement communities and assisted living facilities for the elderly, federal government, offices of physicians, management of companies and enterprises and colleges, universities and professional schools.

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 2023 NAICS standards to the types of businesses where audiologists and speech-language pathologists may work, offices of physicians (NAICS code #62111) would be considered a small business if their average annual receipts are \$16.0 million or less. For offices of all other miscellaneous health practitioners (NCAIS # 621399), the small business threshold is \$10.0 million or less in average annual receipts. For general medical and surgical hospitals (NAICS #622110) and for specialty hospitals (NAICS #622310), a small business is one with \$47 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 \$25.5 million or less. For home health care services (NAICS #621610), the small business threshold is \$19 million or less. Nursing care facilities (skilled nursing facilities) (NAICS #623110) are considered small businesses if their average annual receipts are \$34 million or less. Continuing care retirement communities (NAICS # 623311) have a small business threshold of \$34 million, while assisted living facilities for the elderly (NAICS #623312) have a small business threshold of \$23.5 million. For other miscellaneous ambulatory health care services (NAICS #621999), the small business threshold is \$20.5 million or less in average annual receipts. Elementary and secondary schools (NAICS #611110) would be considered small businesses if they have an average of \$20 million or less in average annual receipts; and for colleges, universities and professional schools (NAICS #611310) the small business threshold is \$34.5 million. Finally, the small business threshold for health and personal care stores (NAICS #456199) is \$9.5 million or less in average annual receipts.

Based upon this variety of employers, the Board believes that most audiologists and speech-language pathologists 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 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 8,788 speech-language pathologists and 1,053 audiologists 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 final-form regulation as required under section 6383(b)(3)(i) of the CPSL. The Board currently processes an average of approximately 951 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/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 951 applications per year, the cost to applicants is estimated at \$ 23,775 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.

(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 2023-24	FY +1 2024-25	FY +2 2025-26	FY +3 2026-27	FY +4 2027-28	FY +5 2028-29
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community	\$23,775	\$23,775	\$23,775	\$23,775	\$23,775	\$23,775
Local Government						
State Government	\$90,000	\$90,000	\$90,000	\$90,000	\$90,000	\$90,000
Total Costs	\$113,775	\$113,775	\$113,775	\$113,775	\$113,775	\$113,775
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 2020-2021 (actual)	FY -2 2021-20212 (actual)	FY -1 2022-2023 (projected)	Current FY 2023-2024 (budgeted)
State Board of Examiners in Speech-Language Pathology and Audiology	\$433,890.00	\$38,284.03	\$364,000.00	\$398,000.00

(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.

Assuming most licensees of the board either are, or work for, small businesses, up to 9,841 small businesses may be 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.

The new streamlined electronic system for making reports of suspected child abuse has decreased the paperwork requirement related to mandatory reporting. In addition, as the approved course provider is required to report participation/attendance in the required training/continuing education electronically to the Bureau, licensees and applicants have no additional reporting requirements. No professional skills are necessary to the preparation of any report or record under this regulation.

- (c) A statement of probable effect on impacted small businesses.

The regulation should have minimal adverse impact on small businesses. The costs associated with the final-form regulation fall primarily on individual applicants and licensees, and not on their employers. 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, so there is no increased burden. Therefore, only applicants for licensure would have a new requirement to complete training in child abuse recognition and reporting. Many approved courses are free or low cost. Most small businesses that employ licensees of the Board could avoid any impact by requiring their employees to pay for their own licensure-related costs, including the costs associated with continuing education.

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

As noted, many approved courses are free or low cost. Small businesses 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. The Board could discern no less costly alternative methods of achieving the purposes of the regulation or the CPSL.

(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;

No less stringent compliance or reporting requirements for small businesses would be consistent with the goals of the CPSL.

- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

No less stringent schedules or deadlines for compliance for small businesses would be consistent with the goals of the CPSL.

- c) The consolidation or simplification of compliance or reporting requirements for small businesses;

The new electronic reporting process established by the Department of Human Services simplifies the reporting process for all businesses, including small businesses.

- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and

There are no design or operational standards in the regulation.

- e) The exemption of small businesses from all or any part of the requirements contained 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: Fall 2023
- D. The expected effective date of the final-form regulation: Upon notice or publication of the final-form rulemaking in the *Pennsylvania Bulletin* – expected in Fall/Winter 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 remaining date in 2023: December 8; and on the following dates in 2024: March 8, June 7, September 6 and December 13, 2024.

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

CDL-1

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FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
49 PA. CODE § 45.12, 45.13, 45.401—45.409 and 45.501—45.503

CHILD ABUSE REPORTING REQUIREMENTS

The State Board of Examiners in Speech-Language Pathology and Audiology (Board) hereby amends §§ 45.12, 45.13, 45.401—45.407 and 45.501—45.503 and adds §§ 45.408 and 45.409 (relating to child abuse recognition and reporting—mandatory training requirements; and child abuse recognition and reporting course approval process) to read as set forth in Annex A.

Effective date

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

Statutory Authority

Section 5(2) of the Speech-Language Pathologists and Audiologists Licensure Act (act) (63 P.S. § 1705(2)) 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 requiring 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. This final-form rulemaking is 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.

Specifically, the Board is amending § 45.12 (relating to application procedures) to incorporate the requirement for all applicants to complete, as a condition of licensure, at least 3 hours of training in child abuse recognition and reporting as required by section 6383(b)(3)(i) of the CPSL. Similarly, the Board is amending § 45.13 (relating to renewal; inactive status; required continuing education) to set forth the requirement that licensees applying for biennial renewal complete at least 2 hours of continuing education in approved courses in child abuse recognition and reporting as a condition of renewal as required by section 6383(b)(3)(ii) of the CPSL.

The Board is making comprehensive amendments to the Board's existing child abuse reporting requirements in §§ 45.401—45.407 to comport to the numerous amendments made to the CPSL since 2014. Additionally, the Board is adding two new sections to incorporate the mandatory training requirements set forth in section 6383(b)(3)(i) and (ii) of the CPSL. Section 45.408 (relating to child abuse recognition and reporting—mandatory training requirement) would set forth the requirements that all individuals applying for an initial license are required to 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 courses in child abuse recognition and reporting as a requirement of biennial renewal in subsection (b). This section also includes 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.

Additionally, the Board is adding § 45.409 (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 mandatory training in child abuse recognition and reporting required under Act 31. 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 applicant's or licensee's record with the Board at the time the course is completed.

Finally, the Board is amending Subchapter G (relating to continuing education) to incorporate the 2 hours of child abuse recognition and reporting training as part of the existing requirement for licensees to complete 20 clock hours of continuing education, and not as an additional requirement. Section 45.502 (relating to exemption and waiver) would be amended to clarify that these 2 hours of mandatory training are an exception to the rule that licensees are not required to complete continuing education during the first biennial period in which first licensed. Finally, § 45.503 (relating to continuing education requirement for reactivation of inactive and lapsed licenses) is likewise amended to incorporate the mandatory training in child abuse recognition and reporting as a condition of reactivation of an inactive or lapsed license.

Summary and Response to Comments

Notice of the proposed rulemaking was published at 53 Pa.B. 2316 (April 29, 2023). Publication was followed by a 30-day public comment period during which the Board received no public comments. Additionally, there were no comments received from Independent Regulatory Review Commission (IRRC) other than to say that they have no objections, comments or recommendations to offer. IRRC further advised that if the final form rulemaking is delivered without revisions, and the committees do not take any action, it will be deemed approved. The House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not submit comments. For these reasons, the Board made no changes to the final-form rulemaking.

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 requirements, and these 2 hours in child abuse recognition and reporting are incorporated in the existing requirement, there would not be an increased burden. Only applicants for licensure would incur an additional requirement and, as there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal. Because all approved training providers of the mandatory training in child abuse recognition and reporting are required to report participation or attendance 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 November 6, 2023, the Board submitted a copy of this rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the SCP/PLC and the HPLC. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has made no revisions based on a lack of comments received from the public, IRRC, the HPLC and the SCP/PLC.

Under section 5.1(g)(3) and (j.2) of the Regulatory Review Act (71 P.S. § 745.5a(g)(3) and (j.2)), on _____, 2023, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2023, and (deemed) approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Shakeena L. Chappelle, Board Administrator, The State Board of Examiners in Speech-Language Pathology and Audiology, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-SPEECH@PA.GOV.

Findings

The State Board of Examiners in Speech-Language Pathology and Audiology finds that:

(1) Public notice of the proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and no comments were received.

(3) Amendments were not made to this final-form rulemaking and therefore the final-form rulemaking does not enlarge the original purpose of the proposed rulemaking published at 53 Pa.B. 2316.

(4) This final-form rulemaking is necessary and appropriate for the administration of the relevant provisions of the Child Protective Services Law (CPSL).

Order

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

(a) The regulations of the Board at 49 Pa. Code Chapter 45, are amended by amending §§ 45.12, 45.13, 45.401—45.407 and 45.501—45.503 and adding §§ 45.408 and 45.409, to read as set forth in Annex A, with ellipses referring to existing text of the regulation.

(b) The Board shall submit a copy of this final-form rulemaking to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall submit this final-form rulemaking to IRRC, the HPLC and the SCP/PLC as required by law.

(d) The Board shall certify this final-form rulemaking and shall deposit it with the Legislative Reference Bureau as required by law.

(e) This final-form rulemaking shall take effect immediately upon publication in the Pennsylvania Bulletin.

Patrick Murphy, Au.D.
Chairperson

**16A-6805: Child Abuse Reporting Requirements
List of Public Commentators**

No Comments Received.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**CHAPTER 45. STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY**

Subchapter B. LICENSURE AND CERTIFICATION

§ 45.12. Application procedures.

(a) The applicant for licensure shall submit to the Board, along with required fees as provided by § 45.1 (relating to fees), a completed, signed and dated application and applicable documentation.

(b) Excluding applicants who fall within the exclusions in section 6(b) of the act (63 P.S. § 1706(b)), the applicant for licensure shall file, or cause to be filed, with the Board evidence that the applicant has:

(1) *Speech-language pathologists.*

(i) Met the educational requirements of § 45.17(a) (relating to education requirements).

(ii) Completed 9 months of supervised professional experience requirements of § 45.20 (relating to supervised professional experience required for licensure as a speech-language pathologist).

(iii) Passed an examination approved by the Board.

(iv) Demonstrated that the applicant is of good moral character.

(v) Completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 45.408(a) (relating to child abuse recognition and reporting—mandatory training requirement).

(2) *Audiologists.*

(i) Met the educational requirements of § 45.17(b).

(ii) Passed an examination approved by the Board.

(iii) Demonstrated that the applicant is of good moral character.

(iv) Completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 45.408(a).

(c) An applicant who wishes to apply for more than one Board-issued license or provisional license specified in § 45.11 (relating to licenses and certifications) shall submit a separate application for each license or provisional license.

§ 45.13. Renewal; inactive status; required continuing education.

* * * * *

(f) A licensee who fails to renew a license or who requests to be placed on inactive status will not be sent Board notifications until the license is renewed or reactivated.

(g) An application for renewal of a license will not be granted unless the licensee has certified that the licensee has completed the required continuing education hours under § 45.501 (relating to credit hour requirements), including at least 2 hours of approved continuing education in child abuse recognition and reporting in accordance with § 45.408(b) (relating to child abuse recognition and reporting—mandatory training requirement). If requested by the Board, an application for renewal shall also include the documentation required under § 45.504 (relating to reporting completion of continuing education).

(h) An application for reactivation of an inactive or lapsed license shall also include the documentation required under § 45.504 for the preceding biennial period.

Subchapter F. CHILD ABUSE REPORTING REQUIREMENTS

§ 45.401. Definitions.

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

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 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 Human Services, which operates a 24-hour a day Statewide toll-free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

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

Licensee—An audiologist or speech-language pathologist licensed by the Board.

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 subchapter, the term includes all audiologists and speech-language pathologists licensed by the Board.

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 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.

(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) An individual 18 years of age or older who resides in the same home as the child.

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

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

(i) A youth camp or program.

(ii) A recreational camp or program.

(iii) A sports or athletic program.

(iv) A community or social outreach program.

(v) An enrichment or educational program.

(vi) A troop, club or similar organization.

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

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

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

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

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

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

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

rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.] Any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 45.402. 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), licensees [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] of the Board 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.* [Licensees 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 a licensee is required to make a report under subsection (a) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that licensee shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

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

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

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

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.

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

A licensee 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 § 45.402(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).

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

A licensee 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.

§ 45.405. Immunity from liability.

(a) Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a licensee 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 licensee’s actions. For the purpose of any civil or criminal proceeding, the good faith of the licensee shall be presumed.

(b) The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensee’s actions [in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of

suspected child abuse or the taking of photographs] under §§ 45.402—45.404 (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).

§ 45.406. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 45.402—45.404 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1, 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.

§ 45.407. Noncompliance.

(a) *Disciplinary action.* A licensee who willfully fails to comply with the reporting requirements in §§ 45.402—45.404 (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 10 of the act (63 P.S. § 1710).

(b) *Criminal penalties.* [Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a licensee 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 all of the following apply:

(i) The mandated reporter willfully fails to report.

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

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

(3) If the willful failure to report an individual suspected of child abuse continues while the mandated reporter knows or has reasonable cause to suspect that 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.

§ 45.408. 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 complete 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 § 45.409 (relating to child abuse recognition and reporting course approval process). The applicant shall certify on the application that the applicant has either completed the required training or has been granted an exemption under subsection (c). The Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance 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 renewal. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 45.409. 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 holds more than one license issued by the Board, or holds a license issued by another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

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

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

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

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

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

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

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

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

(b) Submissions 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 an authorized representative of the approved provider. An electronic signature is acceptable.

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

(13) Verification of ability to report participation or 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.

Subchapter G. CONTINUING EDUCATION

§ 45.501. Credit hour requirements.

(a) Each speech-language pathologist or audiologist shall have completed 20 clock hours of continuing education per license during each preceding biennial period, including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 45.408(b) (relating to child abuse recognition and reporting—mandatory training requirement). Excess clock hours may not be carried over to the next biennium.

* * * * *

§ 45.502. Exemption and waiver.

(a) [A] With the exception of the 2 hours of mandatory training in child abuse recognition and reporting required under § 45.408(b) (relating to child abuse recognition and reporting—mandatory training requirement), a licensee is not required to complete continuing education during the biennial period in which the licensee was first licensed to renew for the next biennium.

* * * * *

§ 45.503. Continuing education requirement for reactivation of inactive and lapsed licenses.

A licensee seeking to reactivate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennial period, including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 45.408(b) (relating to child abuse recognition and reporting—mandatory training requirement). Only continuing education obtained during the 24-month period immediately preceding application for reactivation may be used to justify reactivation. This continuing education is in addition to continuing education required to subsequently renew the license under § 45.501(c) (relating to credit hour requirements).

* * * * *



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY**
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-1389

November 6, 2023

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

Re: Final Regulation
State Board of Examiners in Speech-Language Pathology and Audiology
16A-6805 Child Abuse Reporting

Dear Chairman Bedwick:

Enclosed is a copy of a final rulemaking package of the State Board of Examiners in Speech-Language Pathology and Audiology pertaining to 16A-6805 Child Abuse Reporting Update

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 "Patrick M. Murphy".

Patrick M. Murphy, Au.D., Chairperson
State Board of Examiners in Speech-Language
Pathology and Audiology

DMW/CKM/ds
Enclosure

cc: Arion Claggett, Acting Commissioner of Professional and Occupational Affairs
K. Kalonji Johnson, Deputy Secretary for Regulatory Programs
Andrew LaFratte, Executive Policy Specialist, Department of State
Cynthia Montgomery, Deputy Chief Counsel, Department of State
Dana M. Wucinski, Counsel, State Board of Examiners in Speech-Language Pathology and Audiology
State Board of Examiners in Speech-Language Pathology and Audiology

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NOV 06 2023

From: Monoski, Jesse
To: Solomon, Douglas; Vazquez, Enid
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-5215 & 16A-6805
Date: Monday, November 6, 2023 11:35:10 AM

Independent Regulatory
Review Commission

Received. Thank you.

Jesse Monoski

Executive Director, Consumer Protection & Professional Licensure
Senator Lisa M. Boscola, Minority Chair
Rm 458 Main Capitol Building
Harrisburg, PA, 17120
O: 717-787-4236

From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, November 6, 2023 7:45 AM
To: Vazquez, Enid <enid.vazquez@pasenate.com>; Monoski, Jesse <jesse.monoski@pasenate.com>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-5215 & 16A-6805
Importance: High

■ EXTERNAL EMAIL ■

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

Please be advised that the State Board of Optometry and the State Board of Examiners in Speech-Language Pathology and Audiology are delivering the below final rulemakings.

Thank you for your attention to this matter.

- **16A-5215** – Final Rulemaking of the State Board of Optometry relating to Child Abuse Reporting Requirements: This final 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** – Final Rulemaking of the State Board of Examiners in Speech-Language Pathology and Audiology relating to Child Abuse Reporting Requirements: This final 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.

Doug P. Solomon | Legal Assistant
Office of Chief Counsel | Department of State

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Governor's Office of General Counsel
P.O. Box 69523 | Harrisburg, PA 17106-9523
Office Phone 717.783.7200 | Fax 717.787.0251
dousolomon@pa.gov | www.dos.pa.gov
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NOV 06 2023

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Review Commission

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From: Orchard, Kari L.
To: Solomon, Douglas
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-5215 & 16A-6805
Date: Monday, November 6, 2023 10:05:38 AM

Got it – thanks!

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Kari Orchard

Executive Director (D) | House Professional Licensure Committee

Chairman Frank Burns, 72nd Legislative District

NOV 06 2023

Independent Regulatory
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From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, November 6, 2023 7:51 AM
To: Orchard, Kari L. <KOrchard@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>; Brett, Joseph D. <JBrett@pahouse.net>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-5215 & 16A-6805
Importance: High

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Doug P. Solomon | Legal Assistant
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dousolomon@pa.gov | www.dos.pa.gov
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From: Nicole Sidle
To: Solomon, Douglas; Francesca Summa
Subject: RE: [EXTERNAL]: DELIVERY NOTICE: REGULATION(S): 16A-5215 & 16A-6805
Date: Monday, November 6, 2023 9:39:12 AM

Good Morning—

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This has been received.

NOV 06 2023

Nicole

Independent Regulatory
Review Commission

From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, November 6, 2023 7:55 AM
To: Nicole Sidle <Nsidle@pahousegop.com>; Francesca Summa <Fsumma@pahousegop.com>
Subject: [EXTERNAL]: DELIVERY NOTICE: REGULATION(S): 16A-5215 & 16A-6805
Importance: High

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From: [Smeltz, Jennifer](#)
To: [Solomon, Douglas](#)
Subject: RE: DELIVERY NOTICE: REGULATION(S): 16A-5215 & 16A-6805
Date: Monday, November 6, 2023 8:26:56 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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NOV 06 2023

Independent Regulatory
Review Commission

From: Solomon, Douglas <dousolomon@pa.gov>
Sent: Monday, November 6, 2023 7:58 AM
To: Smeltz, Jennifer <jmsmeltz@pasen.gov>
Subject: DELIVERY NOTICE: REGULATION(S): 16A-5215 & 16A-6805
Importance: High

ⓘ CAUTION : External Email ⓘ

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