

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency
Department of State
Bureau of Professional and Occupational Affairs
State Architects Licensure Board

(2) I.D. Number (Governor's Office Use)
16A-419

IRRC Number: 2629

(3) Short Title
Licensure By Examination

(4) PA Code Cite
49 Pa. Code §§ 9.27, 9.41a, 9.46(b),
9.50, 9.52

(5) Agency Contacts & Telephone Numbers
Primary Contact: Roberta L. Silver, Assistant Counsel
State Architects Licensure Board (717) 783-7200
Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)
☐ Proposed Rulemaking
☒ Final Order Adopting Regulation
☐ Policy Statement

(7) Is a 120-Day Emergency Certification
Attached?
☒ No
☐ Yes: By the Attorney General
☐ Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The State Architects Licensure Board (Board) is amending 49 Pa. Code §§ 9.27, 9.41a(b), 9.46(b), 9.50 and 9.52, relating to eligibility and passing of the Architect Registration Examination (ARE) to adopt a 5-year rolling clock within which all divisions of the ARE must be passed to be eligible for licensure by the Board.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The amendments are authorized under section 6(a) and (d) of the Architects Licensure Law (act)(63 P.S. § 34.6(a) and (d)).

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The National Council of Architectural Registration Boards (NCARB) has implemented a “rolling clock” standard for eligibility and passing of the ARE. While the Board currently has its own 5-year standard in effect, the Board desires to adopt the NCARB standard, with the exception of the application to examination candidates who have already taken and passed at least one division of the examination as of January 1, 2006.

The Board’s current regulation requires each candidate to complete all divisions of the examination within 5 years of being eligible to take the examination. The Board’s standard, which is stricter than NCARB’s, mandates that if the entire examination is not taken and passed within the 5-year period, the entire examination, including all its divisions, must be retaken within a new 5-year period.

The Board’s amended regulation is more lenient than its current regulation. Instead of losing the entire examination and having to retake all divisions within a new 5-year period, the candidate would only be required to retake any division of the examination that is more than 5 years old.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

N/A.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Any candidate who is eligible to take the ARE will benefit from the regulation.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Board has not identified any group of individuals or entities who will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

There are currently 815 examination candidates. The Board's office entered 138 new examination records during FY 2005-2006.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Draft copies of the proposed rulemaking were provided to those interested parties who requested an opportunity to provide input. On May 24, 2005, the Board solicited input from the American Institute of Architects of Pennsylvania (AIAPA) and the National Council of Architectural Registration Boards (NCARB). A second draft was sent to the same stakeholders on January 23, 2006.

The Board received comments from both AIAPA and NCARB. The suggested language from AIAPA became the basis of the Annex of this proposed rulemaking. NCARB, however, recommended that the Board adopt the NCARB rolling clock standard in its entirety, including the "grandfathering" provision, which would permit any examination candidate who had already passed at least one division of the examination an additional 5 years, beginning January 1, 2006, to complete the rest of the examination, irrespective of when the prior passed divisions had been taken. Although the Board seriously considered NCARB's recommendation, in the end, the Board decided that no passed division of the examination should be more than 5 years old. Thus, the Board rejected the "grandfathering" provision recommended by NCARB.

(17) 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.

There may be savings to those applicants who fail to pass all divisions of the ARE within a 5-year period in that they would not need to take the entire examination over again (and pay the required exam fees), but rather would only need to retake those divisions of the exam that were more than 5 years old. However, the amount of those savings is too speculative to estimate.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments will not be affected by the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The Board will not incur an increase in administrative costs by implementing the regulations.

Regulatory Analysis Form

(20) 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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 2004-05	FY -2 2005-06	FY -1 2006-07	Current FY 2007-08
State Architects Licensure Board	\$ 317,214.31	\$ 309,432.96	\$ 345,220.62	\$426,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered because the Board's enabling statute gives the Board the authority to establish rules and regulations for the examination of applicants.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The Board considered adopting NCARB's "grandfathering provision, but in the end determined that it would not accept any division of the ARE passed more than 5 years prior for licensure purposes.

Regulatory Analysis Form

(24) 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 regulation.

There are no federal licensure standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

As of January 1, 2006, almost all states have adopted, in one form or another, a "rolling clock" standard for eligibility and passing of the ARE.

The regulation will not put Pennsylvania at a competitive disadvantage with other states.

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

This regulation will have no effect on other regulations of the Board or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board reviews regulatory proposals at regularly scheduled bi-monthly public meetings. The meeting dates are listed on the Department of State website. However, the Board has not scheduled public hearings or informational meetings regarding this regulation.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No, the regulation will not change existing reporting, record keeping or other paperwork requirements because there is already an existing 5-year standard in Pennsylvania.

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

The Board has perceived no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication as final rulemaking in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Board reviews regulatory proposals at regularly scheduled bi-monthly public meetings. A schedule of board meetings is available on the Department of State's website at www.dos.state.pa.us/bpoa.

FACE SHEET
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WITH THE LEGISLATIVE REFERENCE BUREAU

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INDEPENDENT REGULATORY
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BY: _____
(DEPUTY ATTORNEY GENERAL)

State Architects Licensure Board
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-419

DATE OF ADOPTION:

BY: Dennis R. Connell
Dennis R. Connell, President

BY: Andrew C. Clark
JUN 9 2008

DATE OF APPROVAL

(Deputy General Counsel
(Chief Counsel,
Independent Agency
(Strike inapplicable
title)

TITLE: President
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if
applicable. No Attorney
General approval or
objection within 30 day
after submission.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE ARCHITECTS LICENSURE BOARD
49 PA. CODE, CHAPTER 9

Requirements For Examination Eligibility

The State Architects Licensure Board (Board) hereby amends §§ 9.27, 9.41a, 9.46, 9.50 and 9.52, to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The amendments are authorized under section 6(a) and (d) of the Architects Licensure Law (act) (63 P.S. § 34.6(a) and (d)).

C. Background and Purpose

Currently, § 9.46(b) (relating to requirements for examination eligibility) states that “[a]n architectural degree candidate applying for first time licensure is required to pass the entire professional licensure examination of the Board within 5 years of the date of eligibility to take the examination.” Passing the entire examination requires that each candidate must pass all of the various divisions of the Architecture Registration Examination (ARE) within 5 years of the date of eligibility to take the examination. Under this provision, if a candidate fails to pass any one or more of the divisions within the 5-year period, the eligibility period ends and that candidate would be required to take the entire examination all over again.

Under the amendments, if a candidate does not complete the entire examination within 5 years, any division that the candidate had passed that is older than 5 years old will not be accepted for licensure purposes and the candidate will be required to retake only that “stale” division of the examination. Thus, the candidate will not lose the entire examination, as the current regulation requires, only those divisions that are older than 5 years old.

D. Description of Amendments

The Board amends § 9.27 (relating to inactive records) by deleting the language pertaining to an examination candidate completing the entire examination within 5 years of eligibility.

The Board is amending § 9.41a(b) (relating to adoption of National Board Examinations) by adding language specifying that examination candidates shall comply with the National Council of Architecture Registration Board’s (NCARB’s) examination procedures, conduct standards and

standards pertaining to eligibility and passing of the ARE, unless otherwise stated in the Board's regulations.

In § 9.46(b) (relating to requirements for examination eligibility), the Board is deleting the requirement that examination candidates complete the entire examination within 5 years of the date of eligibility to take the examination. Instead, the Board is adopting new language that specifies that the Board will consider only those divisions of the examination passed within the 5-year period since the first passed division was administered. If any division is more than 5 years old, the candidate will be required to retake that division of the examination and will automatically be given a new 5-year period beginning from the date of the administration of the next oldest passed division without the need to reapply. This implements a new "rolling clock" standard for the Board.

The Board amends § 9.50 (relating to reapplications for examination) to delete the cross-reference to § 9.46(3) because reapplication will no longer be necessary under the rolling clock requirement. The Board is also adding a cross-reference to § 9.41a(b). The Board further amends § 9.52 (relating to grading compilation) to add cross-references to §§ 9.41a(b) and 9.46(b) with regard to the opportunity to retake portions of the examination which were failed or which expired under the 5-year rolling clock.

E. Response to Public Comment and Regulatory Review of Proposed Rulemaking

Publication of proposed rulemaking at 37 Pa.B. 4625 (August 25, 2007) was followed by a 30-day public comment period during which the Board received favorable comments from the American Institute of Architects Pennsylvania (AIAPA). Following the close of the public comment period, the Board did not receive comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). The Board did receive comments from the Independent Regulatory Review Commission (IRRC).

While AIAPA commented favorably on the revisions of the rolling clock standard for examination eligibility, it urged the Board to adopt other recent action by NCARB that would permit candidates for licensure to sit for the ARE prior to completion of the NCARB Intern Development Program. However, such a change would expand the scope of this rulemaking beyond what was proposed, which would require a separate rulemaking be undertaken. In addition, the Board has not yet decided whether it will support NCARB's recent policy change and, therefore, will not amend its regulations to support this change at this time.

IRRC questioned, in relation to § 9.27 (relating to inactive records), what effect the rolling clock period would have on the calculation of when a record becomes inactive. If all of the passed sections of the ARE become more than 5 years old, ARE eligibility will expire for that applicant and the application will be considered inactive. At that time, because the applicant would have to retake

all portions of the ARE, the candidate would be required to reapply to NCARB to retake the entire examination. So long as at least one passed section of the ARE is less than 5 years old, the candidate's record will remain active.

IRRC asked for further clarification of § 9.46(b)(relating to requirements for examination eligibility), which states, "All applicants will have the benefit of the rolling clock but the Board will only consider the divisions of the examination passed within the 5-year time period immediately preceding the date of the latest administered division passed by the applicant." Specifically, IRRC questioned whether, once the rolling clock expires, the applicant will have to take only the remaining divisions needed to pass, or all divisions administered within the new rolling clock period. The intended result of the rolling clock is that if the applicant does not complete the entire examination within 5 years, any division that the applicant has passed that is older than 5 years old will "drop off" and the applicant will be required to retake the "stale" division of the examination only. The language questioned by IRRC is intended to convey the point that once the final division is passed, the Board will look back 5 years to confirm that the entire examination was completed during the preceding 5-year period. Any division that was passed more than 5 years earlier would need to be passed anew. This situation would re-set the rolling clock to begin with the passage of the next oldest division that had been passed. So, for example, if the next oldest division was passed 4 years and 8 months earlier, the applicant would have only 4 months remaining to pass the stale division within the rolling 5-year period. The bottom line is that all of the various divisions of the ARE must be completed within a rolling 5-year period.

Moreover, IRRC questioned whether NCARB's January 1, 2006, date for implementation of the rolling clock standard should be included in the final-form rulemaking. Specifically, IRRC referred to the Board's exception to NCARB's standard with regard to applicants who have completed at least one section of the ARE prior to January 1, 2006. The Board noted in its proposed rulemaking that the difference between the NCARB standard and the Board's standard is that for national certification purposes, NCARB will accept any section passed prior to January 1, 2006, and the applicant will not be required to retake those divisions, even if more than 5 years goes by before the final division is passed. Conversely, for licensure purposes, the Board simply will not accept any passed section that is more than 5 years old. Therefore, the January 1, 2006, date is irrelevant in terms of eligibility for licensure by the Board and does not need to be included in the final-form rulemaking.

F. Fiscal Impact and Paperwork Requirements

The final-form rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions. Likewise, the final-form rulemaking should not necessitate any legal, accounting, reporting or other paperwork requirements.

G. Sunset Date

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act, (71 P.S. § 745.5(a)), on August 15, 2007, the Board submitted a copy of proposed rulemaking, published at 37 Pa. B. 4625 (August 25, 2007), to IRRC and to the Chairpersons of the HPLC and the SCP/PLC for review and comment..

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 considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

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

I. Contact Person

Further information may be obtained by contacting Penny Walker, Administrator, State Architects Licensure Board, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, (pewalker@state.pa.us).

J. Findings

The State Architects Licensure Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the Act of July 31, 1968 (P.L.769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.

- (3) The amendments to the final rulemaking do not enlarge the purpose of proposed rulemaking published at 37 Pa. B. 4625
- (4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

K. Order

The State Architects Licensure Board, acting under its authorizing statutes, orders that:

- (a) The regulations of the Board are amending by amending §§ 9.27, 9.41a, 9.46, 9.50, and 9.52, to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of the Attorney General as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

Dennis R. Connell, President
State Architects Licensure Board

ANNEX A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 9. STATE ARCHITECTS LICENSURE BOARD**

FUNCTIONS OF THE BOARD

* * * * *

§ 9.27. Inactive records.

Records of candidates for licensure that are inactive for 5 years will be destroyed. A record will be considered inactive if a candidate does not correct a deficiency in an application[, or pass the entire examination] within 5 years of notice from the Board of the deficiency [or eligibility to take the examination].

LICENSURE BY EXAMINATION

* * * * *

§ 9.41a. Adoption of National Board Examinations.

* * * * *

(b) Candidates shall comply with examination procedures [and] , conduct standards, and standards pertaining to eligibility and passing of the ARE as established by the NCARB, unless otherwise stated in this chapter.

* * * * *

§ 9.46. Requirements for examination eligibility.

(a) General requirements. A candidate for the examination shall have:

* * * * *

- (b) [An architectural degree candidate applying for first time licensure is required to pass the entire professional licensure examination of the Board within 5 years of the date of eligibility to take the examination.] "Rolling clock" requirement. An applicant for licensure shall have 5 years from the date that the first passed division of the examination was administered to pass all remaining divisions. If an applicant for licensure fails to pass all remaining divisions within the 5-year period, the applicant will automatically be given a new 5-year period measured from the date of administration of the next oldest passed division ("rolling clock") to pass all divisions of the examination and this rolling clock period will continue to automatically renew until all divisions of the examination are passed, without the need to reapply to the Board. Applicants will have the benefit of the rolling clock but the Board will only consider the divisions of the examination passed within the 5-year time period immediately preceding the date of the latest administered division passed by the applicant.
- The Board may waive this requirement upon proof of medical hardship or other extraordinary circumstances.

* * * * *

§ 9.50. Reapplications.

Candidates required to file new applications under §§ 9.27 and [9.46(3)] 9.41a(b) (relating to inactive records; and [requirements for examination eligibility] adoption of National Board

Examinations) shall meet the requirements of the act and regulations in effect at the time the new application is filed.

GRADING AND REVIEW

* * * * *

§ 9.52. Grading compilation.

To qualify for licensure, a candidate shall receive a passing grade on each part or division of the examination. Grades received in individual parts or divisions will not be averaged. A candidate will have opportunities, subject to [9.46(3)] §§ 9.41a(b) and 9.46(b) (relating to adoption of National Board Examinations; and requirements for examination eligibility), to retake those portions of the examination which were failed and those portions which expire under the 5-year rolling clock requirement.

It is proposed to amend Section 3.10.3.A.2.g.6. of the *Water Quality Regulations* and *Water Code* by replacing the last paragraph of that section with the following:

Sections 3.10.3.A.2.g.2.(b) and 3.10.3.A.2.g.6). shall expire on May 15, 2008, unless extended by amendment to this rule.

PAMELA M. BUSH,
Secretary

(Editor's Note: For a final-form rulemaking relating to this document, see 37 Pa.B. 4620 (August 25, 2007).)

Fiscal Note: 68-49. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART V. DELAWARE RIVER BASIN COMMISSION

CHAPTER 901. GENERAL PROVISIONS

§ 901.2. Comprehensive Plan and water quality.

The Comprehensive Plan regulations as set forth in 18 CFR Part 401, Subpart A (2007) and the Water Code and Water Quality Standards as set forth in 18 CFR Part 410 (2007) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 07-1545. Filed for public inspection August 24, 2007, 9:00 a.m.]

STATE ARCHITECTS LICENSURE BOARD

[49 PA. CODE CH. 9]

Requirements for Examination Eligibility

The State Architects Licensure Board (Board) proposes to amend §§ 9.27, 9.41a, 9.46, 9.50 and 9.52 to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The proposed rulemaking is authorized under section 6(a) and (d) of the Architects Licensure Law (63 P.S. § 34.6(a) and (d)).

C. Background and Need For Amendments

Currently, § 9.46(b) (relating to requirements for examination eligibility) states that "[a]n architectural degree candidate applying for first time licensure is required to pass the entire professional licensure examination of the Board within 5 years of the date of eligibility to take the examination." Passing the entire examination requires that each candidate must pass all nine divisions of the examination within 5 years of the date of eligibility to take the examination. Under this provision, if a candidate passes eight divisions within the 5-year period, but still has one more division to complete and the eligibility period ends, that candidate would lose all eight divisions of the examination that had been passed and would be required to take the entire examination all over again.

However, on January 1, 2006, the National Council of Architecture Registration Boards (NCARB) implemented a National "rolling clock" standard for examination eligibility. Prior to this time, NCARB had no standard time limit for completion of the exam, instead leaving that determination to individual State boards. NCARB's Committee on Procedures and Documents, in a statement of support prior to NCARB's 2004 annual meeting, explained that "[r]equiring that all divisions be passed within a reasonable period will better assure that the ARE [Architecture Registration Exam] remains a valid measure of the level of competency necessary to independently practice architecture. While some changes may occur within any 5 year period, there is a lower likelihood that applicants will be tested under different forms of administration and methodologies than is the case currently with applicants having unlimited time in which to pass all divisions."

According to NCARB's rolling clock guidelines, exam candidates who have passed all divisions of the Architecture Registration Exam (ARE) by January 1, 2006, regardless of the time taken, will have passed the ARE. Exam candidates who have passed one or more but not all divisions of the ARE by January 1, 2006, will have 5 years to pass all remaining divisions. A passing grade for a remaining division will be valid for 5 years, after which time the division must be retaken if the remaining divisions have not been passed. NCARB's guidelines further specify that divisions taken before January 1, 2006, will not have to be retaken.

The Board proposes to adopt NCARB's guidelines with respect to the "rolling clock" with one exception. The Board's proposed rulemaking differs from NCARB's guidelines in that candidates who had passed at least one division of the ARE by January 1, 2006, and are, therefore, already in the system, will have a total of 5 years to complete the entire examination. If the candidate does not complete the entire examination within 5 years, a division that the candidate has passed that is older than 5 years will drop off and the candidate will be required to retake the "stale" division of the examination. Thus, the candidate will not lose the entire examination, as the current regulation requires, only those divisions that are older than 5 years.

D. Description of Amendments

The Board proposes to amend § 9.27 (relating to inactive records) by deleting language pertaining to an examination candidate completing the entire examination within 5 years.

The Board further proposes to amend § 9.41a(b) (relating to adoption of National Board Examinations) by adding language specifying that examination candidates shall comply with NCARB's examination procedures, conduct standards and standards pertaining to eligibility and passing of the ARE, unless otherwise stated in the Board's regulations.

In § 9.46(b), the Board proposes to delete the requirement that examination candidates complete the entire examination within 5 years of the date of eligibility to take the examination. Instead, the Board proposes new language that specifies that the Board will consider only divisions of the examination passed within the 5-year period since the first passed division was administered. If a division is more than 5 years old, the candidate will be required to retake that division of the examination and will automatically be given a new 5-year period beginning from the date of the administration of the next oldest

passed division without the need to reapply. This would implement the new "rolling clock" standard for the Board.

The Board proposes to amend § 9.50 (relating to reapplications) to delete the cross-reference to § 9.46(3) because reapplication will no longer be necessary under the rolling clock requirement. The Board also proposes to add a cross reference to § 9.41a(b). The Board further proposes to amend § 9.52 (relating to grading compilation) to add cross-references to §§ 9.41a(b) and 9.46(b) with regard to the opportunity to retake portions of the examination which were failed or which expired under the 5-year rolling clock.

E. Fiscal Impact

The proposed rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions. Likewise, the proposed rulemaking should not necessitate legal, accounting, reporting or other paperwork requirements.

F. Paperwork Requirements

The proposed rulemaking will not create additional paperwork for the Board.

G. Sunset Date

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 15, 2007, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

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

I. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Penny Walker, Administrator, State Architects Licensure Board, 2601 North Third Street, P. O. Box 2649, Harrisburg, PA 17105-2649, pewalker@state.pa.us within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-419 (Licensure By Examination) when submitting comments.

DENNIS R. CONNELL, RA,
President

Fiscal Note: 16A-419. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 9. STATE ARCHITECTS LICENSURE BOARD

FUNCTIONS OF THE BOARD

§ 9.27. Inactive records.

Records of candidates for licensure that are inactive for 5 years will be destroyed. A record will be considered inactive if a candidate does not correct a deficiency in an application [, or pass the entire examination] within 5 years of notice from the Board of the deficiency [or eligibility to take the examination].

LICENSURE BY EXAMINATION

§ 9.41a. Adoption of National Board Examinations.

* * * * *

(b) Candidates shall comply with examination procedures [and], conduct standards, and standards pertaining to eligibility and passing of the ARE as established by the NCARB, unless otherwise stated in this chapter.

§ 9.46. Requirements for examination eligibility.

(a) *General requirements.* A candidate for the examination shall have:

* * * * *

(b) [An architectural degree candidate applying for first time licensure is required to pass the entire professional licensure examination of the Board within 5 years of the date of eligibility to take the examination.] *"Rolling clock" requirement.* An applicant for licensure shall have 5 years from the date that the first passed division of the examination was administered to pass all remaining divisions. If an applicant for licensure fails to pass all remaining divisions within the 5-year period, the applicant will automatically be given a new 5-year period measured from the date of administration of the next oldest passed division ("rolling clock") to pass all divisions of the examination and this rolling clock period will continue to automatically renew until all divisions of the examination are passed, without the need to reapply to the Board. Applicants will have the benefit of the rolling clock but the Board will only consider the divisions of the examination passed within the 5-year time period immediately preceding the date of the latest administered division passed by the applicant. The Board may waive this requirement upon proof of medical hardship or other extraordinary circumstances.

§ 9.50. Reapplications.

Candidates required to file new applications under §§ 9.27 and [9.46(3)] 9.41a(b) (relating to inactive records; and [requirements for examination eligibility] adoption of National Board Examinations) shall meet the requirements of the act and regulations in effect at the time the new application is filed.

GRADING AND REVIEW

§ 9.52. Grading compilation.

To qualify for licensure, a candidate shall receive a passing grade on each part or division of the examination. Grades received in individual parts or divisions will not be averaged. A candidate will have opportunities, subject to [§ 9.46(3)] §§ 9.41a(b) and 9.46(b) (relating to adoption of National Board Examinations; and requirements for examination eligibility), to retake those portions of the examination which were failed and those portions which expire under the 5-year rolling clock requirement.

[Pa.B. Doc. No. 07-1546. Filed for public inspection August 24, 2007, 9:00 a.m.]

STATE BOARD OF CHIROPRACTIC

[49 PA. CODE CH. 5]

Reactivation of Lapsed License

The State Board of Chiropractic (Board) proposes to amend § 5.17 (relating to biennial registration; unregistered status and inactive status; failure to renew; address of record) to read as set forth in Annex A.

Effective date

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

Statutory Authority

The proposed rulemaking is authorized under sections 302(3) and 501(b) of the Chiropractic Practice Act (act) (63 P. S. §§ 625.302(3) and 625.501(b)).

Background and Need for the Proposed Rulemaking

Under section 501(b) of the act, a chiropractor's license must be renewed biennially and a licensee "who has failed to renew his license for a period of longer than five years shall be required to apply for a license in accordance with subsection (a) if he desires to resume practicing chiropractic." Currently, § 5.17(m) requires a licensee whose license has been inactive for more than 5 years to apply for licensure in accordance with § 5.12 or § 5.13 (relating to licensure by examination; and licensure by reciprocity). However, each of these two bases for reactivation has significant administrative limitations or drawbacks that make it inadequate.

Since 1997, the Board has required applicants for licensure by examination to successfully complete all four parts of the National board examination of the National Board of Chiropractic Examiners (NBCE). An inactive licensee who had not previously taken all parts of the exam was required to take the missing parts to reactivate the licensee's license. However, as it has now been more than 5 years since the end of the first renewal period during which applicants were first required to successfully complete all parts of the examination, some applicants who have been inactive for more than 5 years have already completed all four parts of the examination. Thus, there are no "missing parts" of the examination for those inactive licensees to take to demonstrate current competence.

Additionally, a common reason for a licensee to have been inactive for more than 5 years is that the licensee has been practicing in another state. However, reciprocity under § 5.13 is not available to licensees from every state. The Board has attempted to make reactivation administratively simple in this proposed rulemaking, while assuring that a licensee is competent to practice chiropractic after a period of inactivity.

Description of the Proposed Rulemaking

The proposed rulemaking would replace § 5.17(m). A licensee whose license has been inactive for more than 5 years would be permitted to demonstrate competence to resume practice on any of four bases. First, as it is the standard for licensure by examination, a licensee who has successfully completed all parts of the required examination within the year prior to applying for reactivation would be permitted to reactivate. Second, the Board would continue permitting reactivation by qualifying for licensure by reciprocity in accordance with § 5.13. Third, because a licensee who left this Commonwealth and has practiced in another jurisdiction should be as qualified to practice chiropractic today as a licensee who has remained in this Commonwealth, the Board would permit reactivation upon a showing of at least 5 years of continuous licensed practice of chiropractic in another jurisdiction immediately preceding application for reactivation. Finally, successful completion, within 6 months prior to applying for reactivation, of the special purpose examination in chiropractic, which is also offered by the NBCE and often used to demonstrate competence to practice, would be a basis to qualify for reactivation.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 15, 2007, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Deborah L. Smith, Administrator, State Board of Chiropractic, P. O. Box 2649, Harrisburg, PA

STATE ARCHITECTS LICENSURE BOARD
FINAL RULEMAKING 16A-419
REQUIREMENTS FOR EXAMINATION ELIGIBILITY

LIST OF PUBLIC COMMENTATORS

Carolyn E. Boyce, Executive Director
John R. Hill, President
AIA Pennsylvania
208 North Third Street, Suite 400
Harrisburg, PA 17101
(717) 236-4055
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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE ARCHITECTS LICENSURE BOARD

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

June 13, 2008

The Honorable, Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Architects Licensure Board
16A-419: Requirements for Examination Eligibility

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Architects Licensure Board pertaining to Requirements for Examination Eligibility.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis R. Connell".

Dennis R. Connell, RA, Chairperson
State Architects Licensure Board

DRC/RLS:pah

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Roberta L. Silver, Counsel
State Architects Licensure Board
State Architects Licensure Board

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

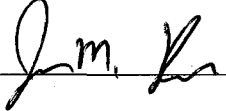
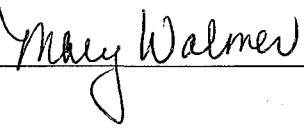

I.D. NUMBER: 16A-419
SUBJECT: REQUIREMENTS FOR EXAMINATION ELIGIBILITY
AGENCY: DEPARTMENT OF STATE - STATE ARCHITECTS LICENSURE BOARD

TYPE OF REGULATION

Proposed Regulation
X Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

RECEIVED
2008 JUN 13 AM 10:24
INDEPENDENT REGULATORY
REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
6/13/08		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Mike Sturla</u>
6/13/08		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
6/13/08		INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only) LEGISLATIVE REFERENCE BUREAU (for Proposed only)

June 9, 2008