

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;"><b>(All Comments submitted on this regulation will appear on IRRC's website)</b></p>	<p style="margin: 0;"><b><i>INDEPENDENT REGULATORY REVIEW COMMISSION</i></b></p> <p style="margin: 0;"><b>RECEIVED</b></p> <p style="margin: 0; font-size: small;">Independent Regulatory Review Commission</p> <p style="margin: 0;">June 3, 2024</p> <p style="margin: 0;">IRRC Number: 3361</p>
<p>(1) Agency Department of State, Bureau of Professional and Occupational Affairs</p>	
<p>(2) Agency Number: 16A Identification Number: 16A-66</p>	
<p>(3) PA Code Cite: 49 Pa. Code §§ 43b.201, 43b.401—43b.405 and 43b.421—43b.452</p>	
<p>(4) Short Title: Consideration of Criminal Convictions</p>	
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Cynthia K. Montgomery, Deputy Chief Counsel, Department of State; P.O. Box 69523, Harrisburg, PA 17106-9523; (717)783-7200; <a href="mailto:cymontgome@pa.gov">cymontgome@pa.gov</a></p> <p>Secondary Contact: Michael McDonald, Policy Director, Department of State, 401 North Street, Room 309, Harrisburg, PA 17120; (717)787-6458; <a href="mailto:mrmcdonald@pa.gov">mrmcdonald@pa.gov</a></p>	
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> Proposed Regulation</p> <p><input checked="" type="checkbox"/> <b>Final Regulation</b></p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The act of July 1, 2020 (P.L. 545, No. 53) (Act 53 of 2020) set forth a new paradigm for the professional and occupational licensing boards and commissions within the Bureau of Professional and Occupational Affairs (Bureau) in considering the impact of criminal convictions on a board or commission’s decision whether to refuse to issue or renew, suspend, revoke or otherwise limit a license, certificate, registration or permit. The relevant provisions of Act 53 of 2020 are codified at 63 Pa.C.S. §§ 3112—3118.</p> <p>This final-form rulemaking includes schedules of criminal convictions that may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit for each of the 29 professional and occupational licensing boards/commissions as required under 63 Pa.C.S. § 3117(relating to list of criminal offenses), sets forth a uniform fee for the processing of preliminary determinations under 63 Pa.C.S. § 3115 (relating to preliminary determinations), clarifies the effect of a particular crime being designated as “directly related” to a particular profession or occupation and sets forth the process by which the various boards and commissions will conduct the “individualized assessments” required under 63 Pa.C.S. § 3113 (relating to consideration of criminal convictions). It also clarifies the standards for “restricted licenses” for barbers and cosmetologists as set forth in 63 Pa.C.S. § 3112 (relating to restricted licenses for barbers and cosmetologists).</p>	

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

The Commissioner is required under 63 Pa.C.S. § 3117 to promulgate regulations setting forth a schedule of criminal convictions that may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit for each occupation or profession regulated by a licensing board or commission under their respective practice acts. The general rulemaking authority of the Department of State (Department) and the various departmental administrative boards and commissions is set forth in section 506 of the Administrative Code of 1929 (71 P.S. § 186). The Commissioner's authority to fix the fees to be charged by the several professional and occupational licensing boards within the Department and to coordinate the activities of the various boards and commissions is set forth in section 810(a)(7) and (8) of The Administrative Code of 1929 (71 P.S. §279.1(a)(7) and (8)).

(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. The Commissioner is required to promulgate regulations under 63 Pa.C.S. § 3117, specifically setting forth the schedules of crimes that may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit for each occupation or profession regulated by a licensing board or commission under their respective practice acts.

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

The final-form regulation is needed to reduce barriers to professional licensure for individuals with prior criminal convictions while continuing to protect and promote public safety. The regulation is also needed to provide transparency and clarity to applicants with criminal histories relating to the types of crimes that may be an impediment to licensure and the factors that the boards and commissions will consider in determining whether an applicant with a criminal conviction may be granted a license.

Generally, the regulation would benefit applicants for licensure who have criminal convictions, especially those individuals with older criminal convictions. The various professional and occupational licensing boards receive an average of approximately 80,000 applications annually across all 29 boards/commissions. However, it is impossible to determine how many of those applicants may have had a criminal history, because not all individuals with a criminal history are denied a license. It is also impossible to determine how many individuals chose not to even apply due to fears that a criminal conviction would disqualify them from licensure. However, the Commissioner estimates that less than 1,000 individuals per year would benefit from the regulations.

In addition, the regulation will benefit those individuals with a conviction who may consider seeking licensure but are unsure if their conviction would pose an impediment to licensure. These individuals would be able to apply to the applicable board for a preliminary determination as to whether their specific conviction may be grounds to deny the license. Preliminary determinations have been available since Act 53 of 2020 went into effect on December 27, 2020. During the last three years (2021, 2022 and to date in 2023, the various boards and commissions processed 364, 327 and 377 preliminary determination applications, respectively. For that reason, it is estimated that approximately 360 individuals would benefit annually from the availability of the preliminary determination process.

Finally, the regulations would benefit those individuals with a criminal conviction that wish to seek licensure as a barber or cosmetologist because instead of denying licensure, the State Board of Barber Examiners or the State Board of Cosmetology could grant a restricted license. This is especially important for individuals training to be barbers or cosmetologists within the State Correctional Institutions who have been convicted of crimes of violence. Since this aspect of Act 53 of 2020 was implemented, the State Board of Barber Examiners has granted 62 restricted licenses and the State Board of Cosmetology has granted 21 restricted licenses. Based on this data, the Commissioner estimates that approximately 40 individuals will benefit annually from the ability to obtain a restricted license where they might otherwise be denied.

(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.

For most boards and commissions there are no Federal licensure standards. However, with regard to the Navigation Commission for the Delaware River and its Navigable Tributaries (Navigation Commission), licensed pilots are required to hold a merchant mariner credential (MMC) from the U.S. Coast Guard. The Federal regulations relating to consideration of criminal records for applicants for an MMC are located at 46 CFR 10.211 (relating to criminal records review). These regulations are not more stringent than the Federal standards.

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

In general, virtually all states factor criminal convictions into the analysis of whether to grant or deny a professional or occupational license. Ten states in the Northeast Region (Connecticut, Delaware, Maryland, New Jersey, New York, Ohio, Rhode Island, Vermont, Virginia and West Virginia) have factors or criteria similar to the factors listed in Act 53 that must be considered in evaluating whether a criminal conviction may disqualify an individual from obtaining a license, permit, certificate or registration to practice a profession or occupation. Only three states in the Northeast Region (Delaware, Massachusetts and Ohio) have the requirement that a board or commission promulgate a specific list of crimes similar to the requirement in 63 Pa.C.S. § 3117. Four states in the Northeast Region (New Hampshire, Ohio, Vermont and West Virginia) have a process for an individual to apply for or request a preliminary determination similar to that required by 63 Pa.C.S. § 3115. The relevant laws are summarized below:

**Connecticut** – Connecticut law provides a list of three factors that must be considered in determining whether a license may be denied due to a criminal conviction. Specifically, Connecticut General Statutes § 46a-80 provides:

(a) Except as provided in subsection (c) of this section, subsection (b) of section 46a-81 and section 36a-489, and notwithstanding any other provisions of law to the contrary, a person shall not be disqualified from employment by the state or any of its agencies, nor shall a person be disqualified to practice, pursue or engage in any occupation, trade, vocation, profession or business for which a license, permit, certificate or registration is required to be issued by the state or any of its agencies solely because of a prior conviction of a crime.

...

(c) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if, after

considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought...

**Delaware** – Generally, the professional and occupational licensing acts in Delaware require, as a qualification for licensure, that an applicant “shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to the practice of [the relevant profession/occupation] ...” unless waived by the applicable board. A board may grant a waiver if, after a hearing or review of documentation, the Board finds all of the following: (1) for a waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of application, the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, and must be in substantial compliance with all court orders pertaining to fines, restitution and community service; (2) for a waiver of a misdemeanor conviction, at the time of the application, the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, and must be in substantial compliance with all court orders pertaining to fines, restitution and community service; (3) the applicant is capable of practicing the profession in a competent and professional manner; and (4) granting the waiver will not endanger the public health, safety or welfare. Health related boards in Delaware also have a similar prohibition on licensing individuals who have been convicted of a felony sexual offense.

Each board or commission under the Delaware Department of State, Division of Professional Regulation has adopted, by way of regulation, a list of crimes that are substantially related to the practice of each profession. See, for example 24 DE ACC 100-12.0 (relating to crimes substantially related to the practice of accountancy); 24 DE ADC 1700-15.0 (relating to crimes substantially related to the practice of medicine, respiratory care, acupuncture, genetic counseling, polysomnography and physician assistants); 24 DE ADC 1900-15.0 (relating to offenses substantially related to the practice of nursing); 24 DE ADC 2900-16.0 (relating to crimes substantially related to the practice of real estate services); etc. However, Delaware does not have a process similar to the preliminary determination provided for in 63 Pa.C.S. § 3115.

**Maine** – In Maine, an individual’s criminal conviction history is not a bar to licensure. However, licensing boards may consider an applicant’s criminal conviction history when reviewing a license application. Licensing programs in Maine must comply with the “Occupational Disqualification Act” 5 MRS, Chapter 341). It permits a licensing agency to consider the following criminal convictions: (1) convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement; (2) convictions for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought; (3) convictions for which no incarceration can be imposed and which directly relate to the trade or occupation for which the license or permit is sought; (4) convictions for which incarceration for one year or more may be imposed; (5) convictions for which incarceration for less than one year may be imposed and that involve sexual misconduct by an applicant for a health-related license. A licensing agency may refuse to grant a license on the basis of these types of convictions only if the licensing agency determines that the applicant has not been sufficiently rehabilitated to warrant the public trust. These procedures apply to most crimes within 3 years of an applicant’s final discharge, if any, from the correctional system. Beyond the 3-year period, ex-offender applicants with no additional convictions are to be considered in the same manner as applicants possessing no prior criminal record for the purpose of licensing decisions.

For health-related boards, these procedures apply for consideration of prior criminal convictions within 10 years of the applicant's final discharge, if any, from the correctional system. Beyond the 10-year period, ex-offender applicants with no additional convictions must be considered in the same manner as applicants possessing no prior criminal record for the purposes of licensing decisions. There is no time limit for consideration of an applicant's conduct that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.

**Maryland** – Md. Crim. Proc. Code § 1-209(c) states that “[i]t is the policy of the State to encourage the employment of nonviolent ex-offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State.” This policy specifically does not apply to a person who was previously convicted of a crime of violence, as defined in § 14-401 of the Criminal Law Article. § 1-209(b). It is described more specifically in § 1-209(d): A department may not deny an occupational license or certificate to an applicant solely on the basis that the applicant has previously been convicted of a crime, unless the department determines that:(1) there is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate sought; or (2) the issuance of the license or certificate would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

Standards for making these determinations are set forth at § 1-209(e), and direct the licensing authority to consider: (1) the policy of the State expressed in subsection (c) of this section; (2) the specific duties and responsibilities required of a licensee or certificate holder; (3) whether the applicant's previous conviction has any impact on the applicant's fitness or ability to perform the duties and responsibilities authorized by the license or certificate; (4) the age of the applicant at the time of the conviction and the amount of time that has elapsed since the conviction; (5) the seriousness of the offense for which the applicant was convicted; (6) other information provided by the applicant or on the applicant's behalf with regard to the applicant's rehabilitation and good conduct; and (7) the legitimate interest of the department in protecting property and the safety and welfare of specific individuals or the general public. Since 2019, the law has provided that a person may not be denied a license based on conviction, even if the disqualifying standards in §1-209(d) apply, if 7 years or more have passed since completion of sentence without other charges, unless a person is required to register as a sex offender. §1-209(f)(1) and (2). Drug convictions are specifically subject to a similar statutory policy and standards, although there is no exception for crimes involving violence. See Md. State Gov't Code § 10-1405(b). In deciding whether to deny an application for a license or whether to impose license sanctions against a licensee and the nature of the sanctions, a licensing authority “shall consider” (1) the relationship between the drug crime and the license; (2) the nature and circumstances of the drug crime; (3) the date of the drug crime; and (4) any other relevant information.)

**Massachusetts** – In Massachusetts, there is no general limitation on how conviction is considered in occupational licensing, although each licensing agency must “provide a list of the specific criminal convictions that are directly related to the duties and responsibilities for the licensed occupation that may disqualify an applicant from eligibility for a license.” See Mass. Gen. Laws ch. 6 § 172N. A few occupations require there to be some type of relationship (“direct” or “substantial”) between the conviction and the duties of the occupation. See, e.g., Mass. Gen. Laws ch. 112 § 52D (“The board . . . may [discipline] any dentist convicted . . . of a felony related to the practice of dentistry”); ch.112, § 61 (board may discipline holder of medical license for “a criminal offense which is reasonably related to the practice of the profession”); ch. 112, § 189 (real estate appraisers may be disciplined based upon conviction of “a crime which is substantially related to the qualifications, functions, and duties of a person developing appraisals and communicating appraisals to others, or convicted of any felony”).

**New Hampshire** – N.H. Rev. Stat. Ann. § 332-G:10 (criminal conviction) provides that no board or commission may deny, suspend, or revoke an occupational or business license “because of a prior conviction of a crime in and of itself.” N.H. Rev. Stat. Ann. § 332-G:10. However, a license may be denied or impaired “after considering the nature of the crime and whether there is a substantial and direct relationship to the occupation, trade, vocation, or profession for which the person has applied, and may consider information about the rehabilitation of the convicted person, and the amount of time that has passed since the conviction or release.” *Id.*

N.H. Rev. Stat. Ann. § 332-G:13 (“Petition for Review of a Criminal Record”) authorizes individuals to seek a preliminary assessment, from any state agency issuing occupational and professional licenses, as to whether their criminal record will disqualify them from licensure. The law provides that an individual may be disqualified from licensure based on criminal record only if convicted of a felony or violent misdemeanor, and only if the licensing board concludes that “the state has an important interest in protecting public safety that is superior to the individual’s right” to be licensed. The board may reach this conclusion only if it determines, by clear and convincing evidence at the time of the petition, that: (1) The specific offense for which the individual was convicted is substantially related to the state’s interest; (2) The individual, based on the nature of the specific offense for which the individual was convicted and the individual’s current circumstances..., is more likely to re-offend by virtue of having the license than if the individual did not have the license; and (3) A re-offense will cause greater harm than it would if the individual did not have the license.

**New Jersey** – Generally, N.J. Stat. Ann. § 2A:168A-1 (1968 Rehabilitated Convicted Offenders Act) provides that a person shall not be disqualified or discriminated against by any licensing authority because of any conviction for a crime, unless [the crime involves dishonesty in public service] or unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought.” In determining that a conviction “relates adversely” to a particular occupation or trade, a licensing authority is required to explain in writing how the following factors, or any other factors, relate to the license or certificate sought: 1. The nature and duties of the occupation, trade, vocation, profession or business, a license or certificate for which the person is applying; 2. Nature and seriousness of the crime; 3. Circumstances under which the crime occurred; 4. Date of the crime; 5. Age of the person when the crime was committed; 6. Whether the crime was an isolated or repeated incident; 7. Social conditions which may have contributed to the crime; 8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision. § 2A:168A-2.

Since 2021, N.J. Stat. Ann. § 45:1-21 governing licensure of the dozens of state licensing boards enumerated in § 45:1-15 (most health-related licenses, accountants, architects, engineers, cosmetology, and many others) provides that boards may deny or suspend licensure upon for individuals who have been convicted of any crime or offense that has a “direct or substantial relationship to the activity regulated by the board or is of a nature such that certification, registration or licensure of the person would be inconsistent with the public’s health, safety, or welfare...” In making this determination, a licensing agency “shall consider” (1) the nature and seriousness of the crime or offense and the passage of time since its commission; (2) the relationship of the crime or offense to the purposes of regulating the profession or occupation regulated; (3) any evidence of rehabilitation; and (4) the relationship of the crime or offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the regulated profession or occupation. § 45:1-21.5. However, the law also precludes granting a license to “an individual who has, within the five years of preceding the submission of an

application for a certificate, registration or license, been convicted of embezzlement, fraud, crimes involving public corruption, or theft” and for individuals convicted of murder or particular sex offenses, it creates “a rebuttable presumption that the crime or offense has a direct or substantial relationship to the activity regulated by the board.”

**New York** –Section 752 of Article 23-A of the New York Correction Law makes it unlawful for public employers, occupational licensing authorities, and private employers with more than ten employees, to deny or terminate employment or licensure based on a previous conviction unless: (1) there is a “direct relationship” between one or more of the previous criminal offenses and the specific license or employment sought; or (2) the issuance of the license or the granting of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. NY Correction Law § 752. The term “direct relationship” is defined essentially the same as “directly related” is defined in Act 53, as follows: “the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license or employment sought.” This prohibition does not apply if disqualification is mandated by law, and the person has not received pardon, a certificate of relief from disabilities or certificate of good conduct. § 751. Section 753(1) provides that in making a determination under § 752, a public agency “shall consider” the following factors: (a) the public policy of this state . . . to encourage the licensure and employment of all persons previously convicted of one or more criminal offenses; (b) the specific duties and responsibilities necessarily related to the license or employment sought; (c) the relation of the conviction to the applicant’s ability to perform his responsibilities; (d) the time elapsed since offense; (e) the age of the person at the time of offense; (f) the seriousness of the offense; (g) any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct; and (h) the interest of the employer of protecting property, and the safety and welfare of individuals or the general public.

**Ohio** – Since 2019, section 9.78 of the Ohio Revised Code requires boards to make available on the internet a list of all criminal offenses for which a conviction shall disqualify a person from obtaining a license. Ohio Rev. Code Ann. § 9.78(C). It also provides that anyone with a conviction may request at any time that a licensing authority make a preliminary determination whether the conviction disqualifies the person from obtaining an occupational or professional license. § 9.78(B). A fee of no more than \$25 may be charged. Within thirty days of receiving a request, the licensing authority must inform the person of its decision. The decision is binding unless the licensing authority determines that the person’s convictions differ from what was included in the request. *Id.* Since 2021, section 9.79 requires boards to list convictions that “may” be disqualifying, and they must be “directly related” to the duties and responsibilities of the licensed profession (although there does not appear to be a definition of “directly related.” § 9.79(B). Other convictions and non-conviction records may not be the basis for denying a license, and vague terms like “moral character” and “moral turpitude” may not be used. § 9.79(C). In addition to the “directly related” standard for discretionary disqualification, the law sets forth factors that licensing authorities shall consider in determining whether to refuse to issue an initial license to an individual, as follows: (a) The nature and seriousness of the offense for which the individual was convicted, found guilty pursuant to a judicial finding, or pleaded guilty; (b) The passage of time since the individual committed the offense; (c) The relationship of the offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation; (d) Any evidence of mitigating rehabilitation or treatment undertaken by the individual, including whether the individual has been issued a certificate of qualification for employment under section 2953.25 of the Ohio Revised Code or a certificate of achievement and employability under section 2961.22 of the Revised Code; (e) Whether the denial of a license is reasonably necessary to ensure public safety. It also limits such consideration to 5-year and/or 10-year periods, with the exception of

offenses that involve an offense of violence, or a sexually oriented offense, which may be considered at any time. § 9.79(D).

**Rhode Island** –R.I. Gen. Laws § 28-5.1-14 applies a “substantial relationship” standard to licensing boards under most departments of state government when considering the effect of a conviction on licensure. The “substantially related” standard is defined as follows: “In determining if a conviction substantially relates to the occupation for which the license is sought, the licensing authority shall consider: (1) The state’s legitimate interest in equal access to employment for individuals who have had past contact with the criminal justice system; (2) The state’s legitimate interest in protecting the property and the safety and welfare of specific individuals or the general public; and (3) The relationship of the crime or crimes to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation. § 28-5.1-14(f). A person “shall not be disqualified from the occupation if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation for which the license is sought.” In establishing rehabilitation, the following factors must be considered: (1) Completion of a period of at least two (2) years after release from imprisonment, or at least two (2) years after the sentencing date for a probation sentence not accompanied by incarceration, without subsequent conviction or pending criminal charge; (2) The nature, seriousness, and relevance of the crime or crimes for which convicted; (3) All circumstances relative to the crime or crimes, including mitigating circumstances surrounding the commission of the crime or crimes; (4) The age of the person at the time the crime or crimes were committed; (5) Claims that the criminal record information is in error or inadmissible under subsection (h) of this section; and (6) All other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the applicant since the applicant's release from any state or federal correctional institution. § 28-5.1-14(g).

**Vermont** – Under Vt. Stat. Ann. Title 3, § 129a that unprofessional conduct that provides the grounds for denial of a license or other disciplinary action includes “conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.” If an individual has a conviction of concern, a board shall consider the following factors in determining whether to deny or discipline a license: (A) the nature and seriousness of the conviction; (B) the amount of time since the commission of the crime; (C) the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession; and (D) evidence of rehabilitation or treatment. In addition, since July of 2021, the licensing boards have been required to provide a pre-application determination regarding whether an applicant’s criminal background would disqualify the applicant from licensure in the profession(s) for which the applicant may thereafter seek licensure. 3 V.S.A. § 123(k) and (l). This request shall provide documentation related to the individual’s conviction or convictions, evidence of rehabilitation, and identification of the profession or professions for which the individual seeks licensure. An applicant would pay a \$25 fee for a “second chance determination” request, and this fee would be deducted from the license application fee if the applicant does thereafter seek licensure.

**Virginia** –The Department of Professional and Occupational Licensure (which licenses professions comparable to the Commonwealth’s business-related boards, such as barbers and cosmetologists, auctioneers, engineers, land surveyors and geologists, accountants, real estate appraisers and real estate salespersons and brokers, etc.) is subject to the general nondiscrimination provision at Va. Code Ann. § 54.1-204 (“Prior convictions not to abridge rights”). With an important caveat, a person may not be refused a license or occupational/professional certificate “solely because of” a prior criminal conviction, unless the criminal conviction “directly relates” to the occupation or profession for which the license, certificate or registration is sought. However, the regulatory board shall have the authority to refuse a

license, certificate or registration if, based upon all the information available, including the applicant's record of prior convictions, it finds that the applicant is unfit or unsuited to engage in such occupation or profession. § 54.1-204(A). In determining whether a criminal conviction "directly relates" to an occupation or profession, the regulatory board shall consider the following criteria: (1) The nature and seriousness of the crime; (2) The relationship of the crime to the purpose for requiring a license to engage in the occupation; (3) The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved; (4) The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession; (5) The extent and nature of the person's past criminal activity; (6) The age of the person at the time of the commission of the crime; (7) The amount of time that has elapsed since the person's last involvement in the commission of a crime; (8) The conduct and work activity of the person prior to and following the criminal activity; and (9) Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release. § 54.1-204(B). Note that these provisions do not apply to persons licensed under the Department of Health Professions, which licenses health-related professions.

**West Virginia** – W. Va. Code § 30-1-24 addresses "Use of criminal records as disqualification of authorization to practice," and provides that boards may not disqualify based on conviction "unless that conviction is for a crime that bears a rational nexus to the occupation requiring licensure." In determining whether a criminal conviction bears a rational nexus to a profession or occupation, a board shall consider at a minimum: (A) The nature and seriousness of the crime for which the individual was convicted; (B) The passage of time since the commission of the crime; (C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; (D) Any evidence of rehabilitation or treatment undertaken by the individual. § 30-1-24(b). In addition, it prohibits the use of the term "moral turpitude" as a basis for denying licensure. Because the term "moral turpitude" is vague and subject to inconsistent applications, boards or licensing authorities when making licensure, certification or registration determination may not rely upon the description of a crime as one of "moral turpitude" unless the underlying crime bears a rational nexus to the occupation requiring licensure, certification, or registration. § 30-1-24 (b)(2). A candidate who has been denied based on a prior criminal conviction may reapply after 5 years from the date of conviction or the date of release from incarceration (with violent and sexual crimes subject to a longer period of disqualification to be determined by the individual board). It also provides for a preliminary determination of whether the individual's criminal record will disqualify the individual from obtaining a license. A board shall provide the determination within 60 days and may charge a fee to recoup its costs for each petition. However, the law expressly does not apply to occupations regulated by the state medical board, physician assistants, or osteopathic physicians and surgeons (among others not relevant).

Based on a review of these provisions, the Commissioner does not believe that these regulations will put Pennsylvania at a competitive disadvantage as compared to other surrounding states.

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

No, this regulation will not affect any other regulations of the Department or any other state agency.

(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.)

As required under 63 Pa.C.S. § 3117 (relating to list of criminal offenses), the Commissioner consulted with the licensing boards and commissions and representatives of the business community with knowledge of the respective professions and occupations in developing the schedules of offenses which may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit for each occupation or profession regulated by the 29 professional and occupational licensing boards and commissions. A draft of the applicable schedule was released to each board/commission’s list of interested parties and stakeholders (which was attached to the Regulatory Analysis form in the proposed rulemaking) with an invitation to submit written comments to the Commissioner and/or to attend a public meeting of the applicable board/commission at which time the proposed schedule was discussed. The Commissioner, or his designee, attended each scheduled meeting as set forth in the proposed rulemaking.

Written comments were received from:

- Pennsylvania Institute of Certified Public Accountants
- Pennsylvania Auctioneers Association
- Debbie Dunn, President, Lancaster School of Cosmetology and Therapeutic Bodywork
- Pennsylvania Medical Society (2)
- Pennsylvania Coalition of Nurse Practitioners
- Amber Nagy, BSN, RN, PCCN, CCRN, PSNA Legislative Ambassador/PAC member
- Pamela Giza, MBA, MS, RN, NEA-BC, PSNA Legislative Ambassador
- Pennsylvania Affiliate of the American College of Nurse-Midwives (PA-ACNM); Pennsylvania Association of Nurse Anesthetists; Pennsylvania Coalition of Nurse Practitioners; and Pennsylvania Nurses Association
- Pennsylvania Speech-Language-Hearing Association
- Jennifer Davis, MSN, CRNP
- Mary Detweiler, MSN, RN, BC, CCM, CPHQ, PSNA Legislative Ambassador
- Jill Buterbaugh, DNP, CRNP, FNP-BC, CNE, Assistant Professor of Nursing, Frostburg State University

In addition, in March of 2021, Community Legal Services, Inc. (CLS) provided written input relating to the proposed schedules, both generally, and with specific emphasis on the schedules for 5 boards – the State Board of Barber Examiners; the State Board of Cosmetology; the State Board of Physical Therapy; the State Board of Occupational Therapy and the State Board of Nursing. After receipt of CLS’s written input, the five specific boards invited CLS to attend a meeting to discuss their concerns with the Commissioner and the board members. These follow-up meetings were held from March to June of 2021.

As a result of the written communications and the consultation with the 29 boards and commissions and members of the business community with knowledge of the professions, the Acting Commissioner ultimately issued the proposed rulemaking, which was published at 52 Pa.B. 7108 (November 19, 2022) for 30 days of public comment. Twenty-one individuals and organizations submitted comments on the regulation, as follows:

- Justice Action Network – Jeanette Bottler (Submitted on December 12, 2022)
- Philadelphia Lawyers for Social Equity – Taylor E. Pacheco, Esq. (December 12, 2022)
- Pennsylvania Chiropractic Association – Keith M. Miller, DC (December 12, 2022)
- PLSE Pardon Project – Carl Oxholm, III (December 14, 2022)
- Last Prisoner Project – Frank Stiefel (December 14, 2022)
- Pennsylvania Prison Society – Clarie Shubik-Richards; Amachi Pittsburgh- Anna E. Hollis; Pennsylvania Institutional Law Project – Su Ming Yeh; Public Interest Law Center – Mimi McKenzie; Youth Sentencing and Reentry Project – Marto Isman; and Alliance for Safety and Justice – Shaena Fazal (December 15, 2022)
- Eastern State Penitentiary Historic Site – Sara Jane Elk (December 15, 2022)
- Community Legal Services, Inc. (December 16, 2022)
- PLSE Pardon Project Steering Committee – Akim Sims (December 16, 2022)
- Pennsylvania Coalition of Nurse Practitioners (PCNP) w/attachment – Cheryl Schlamb, DNP, CRNP (December 16, 2022)
- PA Affiliate of the American College of Nurse-Midwives (PA-ACNM)– Rebecca R.S. Clark, PhD, RN, CNM, WHNP-BC (December 16, 2022)
- Theresa Alberici (December 18, 2022)
- Pennsylvania Society of Health-System Pharmacists – Larry Jones (December 18, 2022)
- American Civil Liberties Union (ACLU) and the ACLU of Pennsylvania - Alexis Alvarez (December 19, 2022)
- City of Philadelphia – Erica Gibson and Assata M. Thomas (December 19, 2022)
- Pennsylvania Association of Nurse Anesthetists (PANA) – Laura Wiggins (December 19, 2022)
- PA Chamber of Business and Industry – Alex Halper (December 19, 2022)
- Pennsylvania Institute of Certified Public Accountants (PICPA) – Peter N. Calcara (December 19, 2022)
- Pennsylvania State Nurses Association (PSNA) – Deborah Cardenas, DNP, MSN, RN, Paralegal, CPHQ (December 19, 2022)
- PA Workforce Development Association – Carrie Amann (December 19, 2022)

In addition, the bipartisan Prime Sponsors of SB 637 and HB 1477 (the bills enacted as Act 53), Representatives Sheryl M. Delozier and Jordan A. Harris, and Senators John DiSanto and Judith L. Schwant, also submitted comments on December 19, 2022.

As a result of the review of these comments, significant revisions were made to the final-form rulemaking. Attachment 1 details the process utilized in conducting a comprehensive review of each of the proposed schedules of criminal offenses that may constitute grounds to refuse to issue, suspend or revoke a license that ultimately resulted in this final-form rulemaking.

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

This final rulemaking primarily impacts individuals, specifically those individuals with criminal convictions who are seeking or intend to seek professional or occupational licensure from one of the 29 boards and commissions within the Bureau. Act 53 and these regulations seek to reduce barriers to professional licensure for individuals with prior criminal convictions while continuing to promote the public health and safety. They also provide greater clarity and transparency about the types of crimes that are deemed directly related to the various professions and occupations and provides a means for an individual with a criminal conviction to obtain a preliminary determination as to whether that conviction is or may be an impediment to licensure. As noted above, the licensing boards and commissions process approximately 80,000 applications per year. It is impossible to estimate how many individuals with criminal convictions may apply or even consider applying for a professional or occupational license. However, this final rulemaking will provide those individuals greater clarity and transparency relating to how the various professional and occupational licensing boards will evaluate a particular conviction, the factors that will be considered in conducting individualized assessments to determine whether a license may be granted notwithstanding a particular conviction, and provides a process for individuals with a criminal conviction to obtain a preliminary determination as to whether a specific criminal conviction may be an impediment to licensure.

(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.

The 29 boards and commissions under the Bureau of Professional and Occupational Affairs are required to comply with the processes set forth in the Commissioner's final rulemaking to the extent that they will be evaluating criminal convictions in accordance with the regulation and conducting individualized assessments. Any individual with a criminal conviction who wants to obtain a preliminary determination will be required to comply with the regulation to the extent it sets forth the process for obtaining a preliminary determination. The Commissioner estimates approximately 360 applicants for preliminary determinations annually. Finally, individuals who are granted a restricted license by the State Board of Barber Examiners or the State Board of Cosmetology will be required to comply with the regulations relating to restricted licenses. The Commissioner estimates approximately 40 such licenses will be granted annually.

(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 regulation primarily impacts individuals, specifically individuals with criminal convictions who are applying for or intend to seek licensure through one of the 29 professional and occupational licensing boards under the Bureau of Professional and Occupational Affairs. The only direct financial impact is associated with the cost of obtaining a preliminary determination (\$45). Other financial impacts may be related to the costs associated with overcoming the rebuttable presumption with regard to convictions for crimes that are on a particular board's list of directly related crimes, or of submitting evidence of the 11 factors that the boards/commissions must consider in conducting an individualized assessment; or costs associated with potentially attending a hearing before a board or hearing examiner. It has been suggested that one of the social impacts of the schedules of criminal convictions is that simply placing a particular crime on a schedule will be a deterrent to anyone with that conviction in applying for a license or even

considering pursuing a particular career because it would create a rebuttable presumption that licensure of the individual would pose a risk to the individual's clients/patients or to the public that would need to be overcome.

The expected benefits resulting from the regulation are a reduction in barriers to professional or occupational licensure, continued protection of the public health and safety, and increased transparency and clarity in the licensure process for individuals with a criminal conviction. The final-form regulations clearly set forth those convictions that may be grounds to deny a license, a process for each board/commission to evaluate those crimes and conduct an individualized assessment in determining whether to grant a license, and a process for individuals to seek a preliminary determination as to whether a particular conviction would be an impediment to licensure. The regulations will also benefit individuals convicted of crimes of violence who may seek licensure as a barber or cosmetologist because in lieu of denial during the three years post-conviction/incarceration, those boards would be able to continue to grant restricted licenses.

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

The Commissioner believes that the amendments to the final-form rulemaking have resulted in lists that are more in line with the statutory intent as set forth by the prime sponsors in their letter of December 19, 2022 – offering a pathway to licensure for those with criminal convictions who have paid their debt to society, while still providing a process that protects the public health and safety and providing increased transparency and clarity as to how licensing boards and commissions evaluate past criminal convictions. These benefits provided by the final-form regulation outweigh any costs or potentially adverse effects.

(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.

Direct costs associated with the final-form rulemaking include the \$45 fee assessed for each preliminary determination application. The Commissioner estimates approximately 360 preliminary determination applications will be submitted annually at a cost of \$16,200. While an applicant with a criminal conviction may choose to engage a lawyer to assist them in navigating the application process, it is not required by the regulations. Therefore, no estimate of legal costs is included.

(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 this final-form 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.

To date, the Bureau of Professional and Occupational Affairs has expended approximately \$343,544 implementing the provisions of Act 53, including costs associated with developing the PALS application for individuals seeking a preliminary determination, and costs associated with creating and implementing restricted licenses for barbers and cosmetologists. Ongoing costs include personnel related costs for processing applications for preliminary determinations, but those costs will be offset by the \$45 fee paid by applicants. As noted above, the Commissioner estimates approximately 360 individuals will apply annually for a preliminary determination. Based on the attached fee report form (Attachment 2), the cost of processing a preliminary determination application is approximately \$45.12, however the Commissioner does not believe it necessary to promulgate a fee above that specified by Act 53 at this time. Therefore, the unrecovered costs to the Bureau/Boards for processing preliminary determination applications is only \$43.20 per year (360 applications x \$0.12), which can easily be assumed by the Boards/Bureau. Costs associated with issuing restricted licenses are no different than costs associated with issuing a probationary license or even an unrestricted license now that the restricted license functionality has been added to PALS.

(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.

The only additional paperwork required by the final-form rulemaking pertains to individuals who wish to apply for a preliminary determination. And while these individuals may choose to engage an attorney to assist them through the process, it is not required.

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

Yes, an online preliminary determination application has been developed as part of PALS to implement 63 Pa.C.S. § 3115.

(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.**

Attached (Attachment 3) is a “user guide” that describes the preliminary determination application process and walks the user through the application form.

(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.

	<b>Current FY FY 23-24</b>	<b>FY +1 FY 24-25</b>	<b>FY +2 FY 25-26</b>	<b>FY +3 FY 26-27</b>	<b>FY +4 FY 27-28</b>	<b>FY +5 FY 28-29</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>	\$16,200	\$16,200	\$16,200	\$16,200	\$16,200	\$16,200
<b>Local Government</b>						
<b>State Government</b>	\$43.20	\$43.20	\$43.20	\$43.20	\$43.20	\$43.20
<b>Total Costs</b>	\$16,243.20	\$16,243.20	\$16,243.20	\$16,243.20	\$16,243.20	\$16,243.20
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>						

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

<b>Program</b>	<b>FY -3 FY 20-21</b>	<b>FY -2 FY 21-22</b>	<b>FY -1 FY 22-23</b>	<b>Current FY FY 23-24 (budgeted)</b>
Bureau of Professional and Occupational Affairs	\$57,462,417.98	\$57,564,990.56	\$60,577,520.98	\$89,356,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Because this final-form rulemaking has no adverse impact on small businesses, no economic impact statement was developed.

(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 Acting Commissioner could discern no particular group which needs to be accommodated by special provisions.

(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.

The original proposed rulemaking did not include time limits beyond which criminal convictions would no longer be considered “directly related” to the relevant profession or occupation. Based on the comments received, especially those received from the four prime sponsors of the legislation that became Act 53, the Acting Commissioner amended to final-form rulemaking to include time limits. In addition, the final-form rulemaking was revised to adopt a more objective means of assessing whether an applicant should be granted a waiver of the \$45 fee required when applying for a preliminary determination – if the individual is on means-tested public assistance or has household income at or below 200% of the Federal poverty guidelines.

The Acting Commissioner believes that this final-form rulemaking represents the least restrictive, acceptable alternative consistent with the legislative intent of Act 53.

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

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

This final-form rulemaking is largely procedural and impacts the manner in which the various licensing boards and commissions evaluate criminal convictions in making individual licensure decisions. Because this final-form rulemaking has no adverse impact on small businesses, no regulatory flexibility analysis was conducted.

(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.

In drafting the final-form rulemaking the Acting Commissioner relied on the following research and data relating to recidivism risk:

- Alfred Blumstein & Kiminori Nakamura, *Redemption in the Presence of Widespread Criminal Background Checks*, *Criminology* 47:2 327–59 (2009).
- Samuel E. DeWitt et al., *Redeemed compared to whom? Comparing the distributional properties of arrest risk across populations and provisional employees with and without a criminal record*, *Criminology & Public Policy* 16:963–97 (2017).
- United States Sentencing Commission, *Recidivism Among Federal Offenders: A Comprehensive Overview*, p. 5 (2016). [Recidivism Among Federal Offenders: A Comprehensive Overview | United States Sentencing Commission \(ussc.gov\)](#)
- Pa. Dep’t of Corrs., *Recidivism 2022 Report*, p. 4 (2022). [Recidivism 2022 Report.pdf \(pa.gov\)](#)

(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 schedule of each board/commission’s meetings is located on the Department’s website at [www.dos.pa.gov](http://www.dos.pa.gov).
- C. The expected date of delivery of the final-form regulation: Winter 2023/2024
- D. The expected effective date of the final-form regulation: Upon notice or publication in the *Pennsylvania Bulletin*.
- E. The expected date by which compliance with the final-form regulation will be required: N/A
- 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 Acting Commissioner intends to evaluate the continuing effectiveness of these regulations on an annual basis and any time there are new statutory enactments of the General Assembly affecting the schedules of criminal convictions that may be grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit as required by 63 Pa.C.S. § 3117(a)(5).

# ATTACHMENT 1

# 16A-66 – Consideration of Criminal Convictions

## Regulatory Analysis Form

### Attachment 1

## Introduction

### *Background*

Act 53 “made sweeping changes to the occupational licensing rules that govern the use of criminal history information in determining whether to grant, deny, suspend, or revoke a professional license.”<sup>1</sup> One such change codified the process to be used by the 29 licensing boards under DOS’s Bureau of Professional and Occupational Affairs (BPOA) for considering an applicant’s criminal record. For use in the new assessment process, the BPOA commissioner, after consulting with the boards and other interested parties, was tasked with publishing a schedule of criminal offenses that “directly relate” to each licensed profession. The policy goal of Act 53 was to reduce barriers to professional licensure for individuals with bygone criminal convictions and increase transparency of the boards’ decision-making process.

In the first instance, each board compiled proposed offenses they deemed relevant to their professions. The Acting Commissioner published these lists in a proposed rulemaking, [Regulation No. 16A-66. Twenty-one individuals and organizations](#) submitted comments on the regulation, nearly all criticizing the proposed lists as overbroad and contrary to the legislation’s intent. Commenters, including [Community Legal Services](#), the [ACLU](#), and the [principal bipartisan drafters](#) of the bill, requested that the Acting Commissioner substantially narrow the lists and asked that the rule prescribe time limits for relevant offenses beyond which a prior conviction could presumptively impact a licensing decision. In consideration of these public comments, and of the Acting Commissioner’s duty to adhere to legislative mandates, the Office of Policy (OP) recommends revising the proposed schedules of offenses contained in Regulation No. 16A-66 as outlined below.

### *Methodology*

In recommending revisions to each board’s proposed schedule of offenses, OP considered foremost whether an offense met the statutory definition of “directly related.” Under Act 53, an offense “directly relates” to a regulated profession only if it has “a *direct bearing* on the fitness or ability to perform one or more of the duties or responsibilities *necessarily related*” to the occupation.<sup>2</sup>

To test the statutory fit, therefore, OP first identified key responsibilities of each licensed occupation. OP principally consulted the statutory scopes of practice defining each profession as well as [O\\*NET Online](#), an occupational database sponsored by the U.S. Department of Labor. Then, OP determined whether an offense met two criteria:

1. The offense must relate to a *necessary* duty or responsibility of the profession that generally will be required of *all licensees* engaging in that occupation. In other words, the duty or responsibility must be essential to the profession, and not a task that may arise only sometimes or that would be generic to a variety of professional settings.

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<sup>1</sup> [Act 53 of 2020 Best Practices Guide](#), Pa. Dep’t of State (eff. Dec. 27, 2020).

<sup>2</sup> Act 53 sec. 3102 (emphasis added).

2. The offense must bear a *meaningful relationship* to one of the occupation’s necessary duties or responsibilities. This means that conviction for committing the offense indicates an inability to perform specific and essential professional duties or responsibilities, or that such duties or responsibilities pose unique circumstances for a heightened risk of reoffending.

If these two criteria are not satisfied, OP recommends removing the offense from the proposed lists. In addition, OP considered other factors:

- The severity of the offense, including whether the legislature has determined it to warrant severe or relatively lenient punishment;
- The vagueness of the offense, and whether a person could be convicted of it for unrelated or relatively unserious conduct; and
- Whether the offense was included within the statutory categories of violent offenses, sexual offenses, or drug offenses which the Boards already must consider when assessing applicants.

### ***Time Limits***

Finally, several commenters recommended that the final rule prescribe time limits beyond which a conviction for a particular offense could no longer be considered “directly related” to the occupation. The objective is to avoid imposing lifetime bans on individuals preventing them from obtaining professional licenses. Research on recidivism is voluminous; studies generally show that the risk of reoffending among those with a prior criminal record falls below the risk of arrest for the general population approximately:

- **4–7 years** after a violent offense;
- **4 years** after a drug offense; and
- **3–4 years** after a property offense.<sup>3</sup>

Approximately four years after it was committed, then, a prior offense may no longer be indicative of an individual’s likelihood of committing future offenses, and the offense may no longer have a “direct bearing” on necessary job duties and responsibilities. An applicant should not be prescriptively penalized for past conduct that research shows may have no bearing on the applicant’s potential threat to public safety or fitness for licensure. Additionally, research into time limits

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<sup>3</sup> See, e.g., Alfred Blumstein & Kiminori Nakamura, *Redemption in the Presence of Widespread Criminal Background Checks*, *Criminology* 47:2 327–59 (2009); Samuel E. DeWitt et al., *Redeemed compared to whom? Comparing the distributional properties of arrest risk across populations and provisional employees with and without a criminal record*, *Criminology & Public Policy* 16:963–97 (2017). See also, e.g., United States Sentencing Commission, [Recidivism Among Federal Offenders: A Comprehensive Overview](#), p. 5 (2016); Pa. Dep’t of Corrs., [Recidivism 2022 Report](#), p. 4 (2022).

imposed related to professional licensure in other jurisdictions reveals an average period of approximately 5 years.

OP recommends that the final proposed rule state that the commission of an offense is no longer subject to a rebuttable presumption of relatedness for purposes of assessing an applicant’s qualifications for professional licensure if *at least five years*<sup>4</sup> have passed since the individual was convicted of the offense. OP stresses, however, that the law still permits the boards to make an individualized assessment of each applicant, including by considering the staleness (or not) of any prior offense, when reviewing applications for licensure.

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<sup>4</sup> Although research shows that the risk of recidivism for violent offenders may remain slightly elevated relative to the general population at five years, OP thinks this is an appropriate benchmark for at least two reasons. First, the legislative intent of Act 53 was to reduce barriers to professional practice for ex-offenders, which a shorter time limit facilitates. Second, although the risk of recidivism is greater among individuals convicted of serious violent crimes, those offenses already are subject to extended time limits under sec. 3113(e) of Act 53.

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**Navigation Commission for the Delaware River and its Navigable Tributaries**

***License Types***

- Apprentice
- Pilot – Sixth Class to First Class

***Necessary Duties and Responsibilities***

An individual seeking to become a pilot must first become an apprentice. Once individuals become licensed as sixth-class pilots, their training and experience must continue before they can attain a first-class license. To achieve this, they will serve for at least one year in each of five classes of licensure. A river pilot is the designated person who has been given the responsibility to be in charge of the movement of a vessel, while that vessel is within the inland waters of the United States of America. The pilot is one of the members of the “Bridge team” responsible for the safe navigation of a vessel while it transits the Delaware River and Bay. Pilots are licensed by the Commonwealth of Pennsylvania to protect the environment and the economy of the whole Delaware Valley Community. While navigating the river, a pilot is responsible for handling all communication for the vessel and keeping the vessel in safe navigation waters.<sup>5</sup>

***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.437, OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of maritime pilots.

- 75 Pa.C.S. § 3742.1 – Accidents involving death or personal injury while not properly licensed
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit the offense listed above.
- Any offense equivalent to the offense listed above under the laws of another jurisdiction.

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<sup>5</sup> <https://www.dos.pa.gov/Documents/Commission%20Guide.pdf>.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.437. Reasons for removal include that they are repetitive of the violent offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of maritime pilots:

- 18 Pa.C.S. § 2701 – Simple assault
- 18 Pa.C.S. § 3302 – Causing or risking catastrophe
- 18 Pa.C.S. § 3313 – Illegal dumping of methamphetamine waste
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid or delivered by mistake
- 18 Pa.C.S. § 3925 – Receiving stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3928 – Unauthorized use of automobiles and other vehicles
- 18 Pa.C.S. § 3935.1 – Theft of secondary metal
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft, when graded as a felony.
- 18 Pa.C.S. § 7508.2 – Operation of methamphetamine laboratory
- 35 P.S. § 780-113(a)(1), (12), (16), (30), (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 75 Pa.C.S. § 3732 – Homicide by vehicle
- 75 Pa.C.S. § 3732.1 – Aggravated assault by vehicle
- 75 Pa.C.S. § 3735 – Homicide by vehicle while driving under the influence
- 75 Pa.C.S. § 3735.1 – Aggravated assault by vehicle while driving under the influence
- 75 Pa.C.S. § 3736 – Reckless driving
- 75 Pa.C.S. § 3742 – Accidents involving death or personal injury
- 75 Pa.C.S. § 3802 – Driving under influence of alcohol or controlled substance
- 75 Pa.C.S. § 3808 – Illegally operating a motor vehicle not equipped with ignition interlock
- 75 Pa.C.S. § 3809 – Restriction on alcoholic beverages

## **State Architects Licensure Board**

### ***License Types***

- Registered Architect

### ***Necessary Duties and Responsibilities***

The “Practice of Architecture” means “rendering or offering to render...planning, providing preliminary studies, designs, drawings, specifications, and other design documents, construction management and administration of construction contracts[.]” “in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures.” 63 P.S. § 34.3.

Specific job functions include:

- Develop final construction plans that include aesthetic representations of the structure or details for its construction.
- Prepare scale drawings or architectural designs, using computer-aided design or other tools.
- Prepare information regarding design, structure specifications, materials, color, equipment, estimated costs, or construction time.
- Consult with clients to determine functional or spatial requirements of structures.
- Meet with clients to review or discuss architectural drawings.
- Monitor the work of specialists, such as electrical engineers, mechanical engineers, interior designers, or sound specialists to ensure optimal form or function of designs or final structures.
- Integrate engineering elements into unified architectural designs.
- Plan layouts of structural architectural projects.
- Conduct periodic on-site observations of construction work to monitor compliance with plans.
- Prepare contract documents for building contractors.
- Plan or design structures such as residences, office buildings, theatres, factories, or other structural properties in accordance with environmental, safety, or other regulations.
- Direct activities of technicians engaged in preparing drawings or specification documents.
- Administer construction contracts.
- Perform predesign services, such as feasibility or environmental impact studies.
- Design structures that incorporate environmentally friendly building practices or concepts, such as Leadership in Energy and Environmental Design (LEED) standards.
- Inspect proposed building sites to determine suitability for construction.
- Design environmentally sound structural upgrades to existing buildings, such as natural lighting systems, green roofs, or rainwater collection systems.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.424(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of architecture.

- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4104(a) – Tampering with records or identification, when graded as a misdemeanor<sup>6</sup>

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<sup>6</sup> When graded as a misdemeanor, this offense is written to be narrowly tailored to those circumstances in which the intent is to “deceive or injure anyone or to conceal any wrongdoing.” 18 Pa.C.S. § 4104(a). The summary offense described in § 4104(b) is too broad to be directly related to the profession.

- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 73 P.S. § 517.8 – Home improvement fraud
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.424(c). Reasons for removal include that they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of architecture practice.<sup>7</sup>

- 18 Pa.C.S. § 3921 – Theft by unlawful taking
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receipt of stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 4104 – Tampering with records or identification, when graded as a summary offense
- 18 Pa.C.S. § 4105 – Passing or issuing bad checks (felony only)
- 18 Pa.C.S. § 4107 – Committing deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery and criminal breach of duty to act disinterestedly
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception<sup>8</sup>
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4121 – Possession and use of unlawful devices

## **State Board of Accountancy**

### ***License Types***

- Certified Public Accountant

### ***Necessary Duties and Responsibilities***

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<sup>7</sup> Critically, many of the offenses removed from the proposed list may seem related to an applicant’s general propensity towards honesty in dealings, though they relate to the individual’s honesty in a personal capacity, not as an agent for another. Accordingly, they do not directly relate to necessary functions of the practice of that profession.

<sup>8</sup> This provision only applies with respect to “any instrument affecting or purporting to affect or likely to affect the pecuniary interest of any person.” 18 Pa.C.S. § 4114. These are not the types of instruments that necessarily relate to the practice of architecture, which would involve only ministerial interaction with financial documents.

An accountant is an individual who performs “attest activities” or other services such as “management advisory or consulting services, business valuations, financial planning, preparation of tax returns or furnishing of advice on tax matters.” 49 Pa. Code § 11.1.

Specific job functions include:

- Prepare financial documents, reports, or budgets.
- Advise others on financial matters.
- Report information to managers or other personnel.
- Advise others on business or operational matters.
- Examine financial records.
- Collect evidence for legal proceedings.
- Investigate legal issues.
- Oversee business processes.
- Examine financial records or processes.
- Discuss business strategies, practices, or policies with managers.
- Analyze business or financial data.
- Prepare financial documents.
- Verify accuracy of records.
- Verify accuracy of financial information.
- Analyze financial information.
- Conduct financial or regulatory audits.
- Calculate tax information.
- Advise others on human resources topics.
- Represent the interests of clients in legal proceedings.
- Develop business or financial information systems.
- Assess financial status of clients.
- Coordinate regulatory documentation activities.
- Evaluate effectiveness of personnel policies or practices.
- Analyze budgetary or accounting data.
- Pay charges, fees, or taxes.
- Prepare operational budgets

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.423(c), OP has identified the following as directly relating to a necessary duty or responsibility of accountancy.

- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4105 – Bad checks (felony only)
- 18 Pa.C.S. § 4106 – Access device fraud (felony only)
- 18 Pa.C.S. § 4108 – Commercial bribery and breach of duty to act distinterestedly
- 18 Pa.C.S. § 4110 – Defrauding secured creditors
- 18 Pa.C.S. § 4111 – Fraud in insolvency
- 18 Pa.C.S. § 4113 – Misapplication of entrusted property and property of government or financial institutions
- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities

- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 18 Pa.C.S. § 7326 – Disclosure of confidential tax information
- 26 U.S.C.A. § 7201 – Attempt to evade or defeat tax
- 26 U.S.C.A. § 7202 – Willful failure to collect or pay over tax
- 26 U.S.C.A. § 7203 – Willful failure to file return, supply information, or pay tax
- 26 U.S.C.A. § 7204 – Fraudulent statement or failure to make statement to employees
- 26 U.S.C.A. § 7205 – Fraudulent exemption withholding certificate or failure to supply information
- 26 U.S.C.A. § 7206 – Fraud and false statements
- 26 U.S.C.A. § 7207 – Fraudulent returns, statements or other documents
- 26 U.S.C.A. § 7212 – Attempts to interfere with administration of internal revenue laws
- 26 U.S.C.A. § 7213 – Unauthorized disclosure of information
- 26 U.S.C.A. § 7215 – Offenses with respect to collected taxes
- 26 U.S.C.A. § 7216 – Disclosure or use of information by preparers of returns
- 15 U.S.C. 78j(b) – Employment of manipulative and deceptive practices
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.423(c). Reasons for removal include that they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of accountancy.

- 18 Pa.C.S. § 911 – Corrupt organizations
- 18 Pa.C.S. § 3701 – Robbery
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receiving stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3929 – Retail theft (felony only)
- 18 Pa.C.S. § 3929.3 – Organized retail theft
- 18 Pa.C.S. § 3932 – Theft of leased property
- 18 Pa.C.S. § 3934 – Theft from a motor vehicle
- 18 Pa.C.S. § 4101 – Forgery
- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4107.2 – Deception relating to certification of minority business enterprise or women’s business enterprise

- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4701 – Bribery in official and political matters
- 18 Pa.C.S. § 4702 – Threats and other improper influence in official and political matters
- 18 Pa.C.S. § 4703 – Retaliation for past official action
- 18 Pa.C.S. § 4909 – Witness or informant taking bribe
- 18 Pa.C.S. § 4910 – Tampering with or fabricating physical evidence
- 18 Pa.C.S. § 4911 – Tampering with public records or information
- 18 Pa.C.S. § 4912 – Impersonating a public servant
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims (felony only)
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 4958 – Intimidation, retaliation or obstruction in child abuse cases
- 18 Pa.C.S. § 5107 – Aiding consummation of crime
- 18 Pa.C.S. § 5108 – Compounding
- 18 Pa.C.S. § 5111 – Dealing in proceeds of unlawful activities
- 18 Pa.C.S. § 7611 – Unlawful use of computer and other computer crimes
- 18 Pa.C.S. § 7613 – Computer theft
- 18 Pa.C.S. § 7615 – Computer trespass

## **State Board of Auctioneer Examiners**

### ***License Types***

- Auctioneer
- Apprentice Auctioneer
- Trading Assistant

### ***Necessary Duties and Responsibilities***

An “[a]uctioneer” is “[a]n individual who sells or offers or attempts to sell property at auction,” which is a “method for the sale or lease of property, or any interest in property, by means of a verbal exchange, regular mail, telecommunications, the Internet, an electronic transmission or a physical gesture between an auctioneer, apprentice auctioneer or auction company and one or more potential purchasers or lessees through the solicitation of offers, in the form of bids, in an effort to advance the amount of the bids to obtain the highest or most favorable offer.” 63 P.S. § 734.2.

A “[t]rading assistant” is “[a]n individual who, for a commission or fee, conducts or intends to conduct a business within this Commonwealth of selling, or offering to sell, the personal property of

another through an online trading assistant consignment sale transaction, or who performs, or offers to perform, any of the functions or activities requiring registration under [63 P.S. § 734.5.1<sup>9</sup>].”

Specific job functions include:

- Appraise, assemble, and advertise goods.
- Communicate the terms and conditions upon which the sale will be made.
- Announce the character, quality and description of the property offered for sale to the persons present.
- Notify as to whether or not a right to bid is reserved by or on behalf of the seller.
- Act as agent of the seller.
- Conduct auction.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.425(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of auctioneering.

- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receipt of stolen property
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 4102 – Simulating objects of antiquity, rarity, etc.
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery and breach of duty to act disinterestedly
- 18 Pa.C.S. § 4109 – Rigging publicly exhibited contest
- 18 Pa.C.S. § 4112 – Receiving deposits in a failing financial institution
- 18 Pa.C.S. § 4113 – Misapplication of entrusted property and property of government or financial institutions
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4119 – Trademark counterfeiting
- 18 Pa.C.S. § 4911 – Tampering with public records or information
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 63 P.S. § 734.29 – Unlicensed practice
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.

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<sup>9</sup> This statute provides, in relevant part, that “[i]t shall be unlawful for an individual to act as a trading assistant, or for any legally recognized entity to act as a trading assistant company, without either first registering with or obtaining licensure from the board. A legally recognized entity conducting business as a trading assistant must register as a trading assistant company even though a member or officer is registered as a trading assistant.” 63 P.S. § 734.5.1(a).

- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.425(c). Reasons for removal include that they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of auctioneering.

- 18 Pa.C.S. § 911 – Corrupt organizations
- 18 Pa.C.S. § 2906 – Criminal coercion
- 18 Pa.C.S. § 2907 – Unlawful retention of a ransom
- 18 Pa.C.S. § 2909 – Concealment of whereabouts of a child
- 18 Pa.C.S. § 2910 – Luring a child into a motor vehicle or structure
- 18 Pa.C.S. § 3015(a) – Nonpayment of wages while pertaining to human trafficking
- 18 Pa.C.S. § 3016(a) – Obstruction of justice in relation to human trafficking
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking while holding a state professional license
- 18 Pa.C.S. § 3133 – Sexual extortion
- 18 Pa.C.S. § 3921 – Theft by taking
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3928 – Unauthorized use of automobiles and other vehicles
- 18 Pa.C.S. § 3929 – Retail theft
- 18 Pa.C.S. § 3929.1 – Library theft
- 18 Pa.C.S. § 3929.2 – Unlawful retention of retail or library theft instruments
- 18 Pa.C.S. § 3929.3 – Organized retail theft
- 18 Pa.C.S. § 3930 – Theft of trade secrets
- 18 Pa.C.S. § 3931 – Theft of unpublished dramas and musical compositions
- 18 Pa.C.S. § 3932 – Theft of leased property
- 18 Pa.C.S. § 3934 – Theft from a motor vehicle
- 18 Pa.C.S. § 3935.1 – Theft of secondary metal
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4110 – Defrauding secured creditors
- 18 Pa.C.S. § 4111 – Fraud in insolvency
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4116 – Unlawful copying and recording devices
- 18 Pa.C.S. § 4116.1 – Unlawful operation or recording devices in motion picture theater
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4118 – Washing vehicle titles
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4121 – Possession and use of unlawful devices

- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party

## **State Board of Barber Examiners**

### *License Types*

- Barber
- Barber Manager
- Barber Teacher

### *Necessary Duties and Responsibilities*

The profession of barbering is defined as “to shave or trim the beard; to cut, shape, trim or blend the hair with the proper tools or instruments designed for this purpose; to shape the eyebrows, to give facial and scalp massaging, facial and scalp treatment, with any preparations made for this purpose, either by hand or by mechanical or electrical appliances; to singe and shampoo the hair or apply any makes of hair cream, hair lotions or hair tonics; to dye, color or bleach the hair and to perform any service on a wig or hairpiece; to style and to render hair straightening, hair processing, hair weaving, hair waving and curling, with such methods as: manual, mechanical, chemical or electrical with the proper devices or proper chemical compounds developed and designed for this purpose.” 63 P.S. § 552.1.

Specific job functions include:

- Trim client hair.
- Apply protective coverings to objects or surfaces near work areas.
- Clean tools or equipment.
- Discuss service options or needs with clients.
- Clean facilities or work areas.
- Groom wigs or hairpieces.
- Assess skin or hair conditions.
- Maintain financial or account records.
- Perform administrative or clerical tasks.
- Perform human resources activities.
- Supervise service workers.
- Maintain professional knowledge or certifications.
- Provide cosmetic advice for clients.
- Order materials, supplies, or equipment.
- Apply cleansing or conditioning agents to client hair, scalp, or skin.
- Promote products, services, or programs.
- Sell products or services.
- Maintain client information or service records.
- Apply solutions to hair for therapeutic or cosmetic purposes.
- Administer massages to the face and scalp.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.426(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of barbering.

- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit the offense listed above.
- Any offense equivalent to the offense listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.426(c). Reasons for removal include that they are repetitive of the violent offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of barbering:

- 18 Pa.C.S. § 2702 – Aggravated assault
- 18 Pa.C.S. § 2705 – Recklessly endangering another person
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid or delivered by mistake
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 35 P.S. § 780-113(a)(30) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 75 Pa.C.S. § 3802 – Driving under the influence of alcohol of controlled substance

## **State Board of Certified Real Estate Appraisers**

### ***License Types***

- Certified General Appraiser
- Certified Broker Appraiser
- Certified Residential Real Estate Appraiser
- Licensed Appraiser Trainee
- Certified Pennsylvania Evaluator

### ***Necessary Duties and Responsibilities***

Pennsylvania law does not describe the practice of real estate appraising. Rather, it describes what appraisals are: “written analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real property, for or in expectation of compensation.” 63 P.S. § 457.2. It then requires that anyone conducting real estate appraisals or holding themselves out as a certificant obtain the necessary certification.

Specific job functions include:

- Compute final estimation of property values, taking into account such factors as depreciation, replacement costs, value comparisons of similar properties, and income potential.
- Prepare written reports that estimate property values, outline methods by which the estimations were made, and meet appraisal standards.
- Collect and analyze relevant data to identify real estate market trends.
- Prepare and maintain current data on each parcel assessed, including maps of boundaries, inventories of land and structures, property characteristics, and any applicable exemptions.
- Explain assessed values to property owners and defend appealed assessments at public hearings.
- Inspect properties, considering factors such as market value, location, and building or replacement costs to determine appraisal value.
- Examine income records and operating costs of income properties.
- Search public records for transactions such as sales, leases, and assessments.
- Estimate building replacement costs, using building valuation manuals and professional cost estimators.
- Draw land diagrams to be used in appraisal reports to support findings.
- Testify in court as to the value of a piece of real estate property.
- Analyze trends in sales prices, construction costs, and rents, to assess property values or determine the accuracy of assessments.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.427(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of real estate appraisal.

- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4104 – Tampering with records or identification (misdemeanor only)
- 18 Pa.C.S. § 4107 – Committing deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery and criminal breach of duty to act disinterestedly
- 18 Pa.C.S. § 4110 – Defrauding secured creditors
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsifications to authorities
- 18 Pa.C.S. § 4911 – Tampering with public records or information
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license

- 18 Pa.C.S. § 7331 – Unlicensed mortgage loan business
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.427(c). Reasons for removal include that they are duplicative of the violent offenses already listed in the statute and restated in the proposed regulation, and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of real estate appraisal.

- 18 Pa.C.S. § 3502 – Burglary Chapter
- 18 Pa.C.S. § 3503 – Criminal trespass (felony only)
- 18 Pa.C.S. § 3701 – Robbery Chapter
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receiving stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3932 – Theft of leased property
- 18 Pa.C.S. § 4104 – Tampering with records or identification (summary offense)
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4701 – Bribery in official and political matters
- 18 Pa.C.S. § 4702 – Threats or other improper influence in political matters
- 18 Pa.C.S. § 4703 – Retaliation for past official action
- 18 Pa.C.S. § 4909 – Witness or informant taking a bribe
- 18 Pa.C.S. § 4912 – Impersonating a public servant
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims (felony only)
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 4958 – Intimidation, retaliation or obstruction in child abuse cases
- 18 Pa.C.S. § 7611 – Unlawful use of computer and other computer crimes
- 18 Pa.C.S. § 7613 – Computer theft
- 18 Pa.C.S. § 7615 – Computer trespass

## **State Board of Chiropractic**

### *License Types*

- Chiropractor

### ***Necessary Duties and Responsibilities***

Chiropractic includes “systems of locating misaligned or displaced vertebrae of the human spine and other articulations; the examination preparatory to the adjustment or manipulation of such misaligned or displaced vertebrae and other articulations; the adjustment or manipulation of such misaligned or displaced vertebrae and other articulations; the furnishing of necessary patient care for the restoration and maintenance of health; [] the use of board-approved scientific instruments of analysis, including X-ray[;] . . . diagnosis [that] is necessary to determine the nature and appropriateness of chiropractic treatment; the use of adjunctive procedures in treating misaligned or dislocated vertebrae or articulations and related conditions of the nervous system . . . ; and nutritional counseling.” 63 P.S. § 625.102.

Specific job functions include:

- Examine patients to assess general physical condition.
- Record patient medical histories.
- Collect medical information from patients, family members, or other medical professionals.
- Diagnose medical conditions.
- Gather medical information from patient histories.
- Treat patients using adjunctive procedures.
- Advise patients on effects of health conditions or treatments.
- Analyze test data or images to inform diagnosis or treatment.
- Provide health and wellness advice to patients, program participants, or caregivers.
- Collaborate with healthcare professionals to plan or provide treatment.
- Refer patients to other healthcare practitioners or health resources.
- Schedule patient procedures or appointments.
- Apply bandages, dressings, or splints.
- Recommend types of assistive devices.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.428(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of chiropractic.

- 18 Pa.C.S. § 2713 – Neglect of a care-dependent person
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 62 P.S. § 1407 – Medicaid services fraud
- 63 P.S. § 625.701 – Unlicensed practice of Chiropractic
- 63 P.S. § 625.702 – Criminal penalties for violations of the Chiropractic Practice Act
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud

- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.428(e). Reasons for removal include that they are duplicative of the violent, sexual, and drug trafficking offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of chiropractic.

- 18 Pa.C.S. § 2709.1 – Stalking
- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records and identification
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4304 – Endangering welfare of children
- 18 Pa.C.S. § 4901 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4911 – Tampering with public records
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 5101 – Obstructing administration of law or other governmental function
- 18 Pa.C.S. § 5105 – Hindering apprehension or prosecution
- 18 Pa.C.S. § 5111 – Dealing in proceeds of unlawful activity
- 35 P.S. § 780-113(a)(14), (19), (30) and (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 63 P.S. § 390-8 – Relating to criminal offenses under the Pharmacy Act
- 77 P.S. § 1039.2 – Offenses pertaining to insurance fraud under the Workers’ Compensation Act
- 18 U.S.C.A. § 1341 – Mail fraud
- 26 U.S.C.A. § 7206 – Filing fraudulent income tax returns

## **State Board of Cosmetology**

### ***License Types***

- Cosmetologist
- Cosmetology Teacher
- Esthetician
- Esthetician Teacher
- Nail Technician
- Nail Technician Teacher
- Natural Hair Braider
- Natural Hair Braider Teacher

### ***Necessary Duties and Responsibilities***

The profession of Cosmetology includes “the embellishment, cleanliness and beautification of the human hair, such as arranging, braiding, dressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, pressing, or similar work there on and there about, and the removal of superfluous hair, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work up on the scalp, face, arms or hands, or the upper part of the body, by the use of mechanical or electrical apparatus or appliances or cosmetics, preparations, tonics, antiseptics, creams or lotions, or by any other means, and of manicuring the nails.” The occupation also includes “the acts comprising the practice of nail technology, natural hair braiding and esthetics.” 63 P.S. § 507.

An esthetician is someone who engages in “the practice of massaging the face, applying cosmetic preparations, antiseptics, tonics, lotions or creams to the face, removing superfluous hair by tweezers, depilatories or waxes and the dyeing of eyelashes and eyebrows.” 63 P.S. § 507.

A nail technician is someone who engages in “the practice of manicuring the nails of an individual, applying artificial or sculptured nails to an individual, massaging the hands of an individual or massaging the lower arms of an individual up to the individual’s elbow, [or] massaging the feet of an individual or the lower legs of an individual up to the individual’s knee.” 63 P.S. § 507.

A natural hair braider is someone who engages in “the practice of utilizing techniques that result in tension on hair roots of individuals, such as twisting, wrapping, weaving, extending, locking or braiding of the hair. The term does not include the application of dyes, reactive chemicals or other preparations to alter the color or to straighten, curl or alter the structure of hair.” 63 P.S. § 507.

Specific job functions include:

- Clean facilities or work areas.
- Clean tools or equipment.
- Apply solutions to hair for therapeutic or cosmetic purposes.
- Groom wigs or hairpieces.
- Trim client hair.
- Schedule appointments.
- Demonstrate activity techniques or equipment use.

- Maintain client information or service records.
- Promote products, services, or programs.
- Sell products or services.
- Assess skin or hair conditions.
- Supervise service workers.
- Train service staff.
- Apply cleansing or conditioning agents to client hair, scalp, or skin.
- Administer massages to the scalp, face, arms, hands or upper part of the body.
- Operate cash registers.
- Provide cosmetic advice for clients.
- Order materials, supplies, or equipment.
- Set up merchandise displays.
- Administer first aid.
- Design costumes or cosmetic effects for characters.
- Treat nails by shaping, decorating, or augmenting.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.429(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of cosmetology.

- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit the offense listed above.
- Any offense equivalent to the offense listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.429(c). Reasons for removal include that they are repetitive of the violent offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of cosmetology:

- 18 Pa.C.S. § 2702 – Aggravated assault
- 18 Pa.C.S. § 2705 – Recklessly endangering another person
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid or delivered by mistake
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery and breach of duty to act disinterestedly
- 18 Pa.C.S. § 4112 – Receiving deposits in a failing financial institution
- 18 Pa.C.S. § 4113 – Misapplication of entrusted property and property of governmental or financial institutions

- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4120 – Identity theft

## **State Board of Crane Operators**

### *License Types*

- Crane Operator

### *Necessary Duties and Responsibilities*

A crane operator is an individual licensed by the State Board of Crane Operators to operate a crane. A “crane” is a “power-operated hoisting machine that has a power-operated winch, load line and boom moving laterally by the rotation of the machine on a carrier or base which has a manufacturer’s rated maximum lifting capacity of 15 tons or more as specified in ASME B30.5 and includes a derrick, crawler crane and wheel-mounted crane of both truck and self-propelled wheel type.” 63 P.S. § 2400.102.

Specific job functions include:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Weigh materials to ensure compliance with specifications.</li> <li>• Verify information or specifications.</li> <li>• Operate cranes, hoists, or other moving or lifting equipment.</li> <li>• Inspect material-moving equipment to detect problems.</li> <li>• Maintain material moving equipment in good working condition.</li> <li>• Install parts, assemblies, or attachments in transportation or material handling equipment.</li> </ul> | <ul style="list-style-type: none"> <li>• Direct material handling or moving activities.</li> <li>• Clean machinery or equipment.</li> <li>• Load shipments, belongings, or materials.</li> <li>• Inspect work to ensure standards are met.</li> <li>• Review work orders or schedules to determine operations or procedures.</li> <li>• Secure cargo.</li> <li>• Signal others to coordinate vehicle movement.</li> <li>• Record operational or production data.</li> </ul> |
|--|---|

### *Proposed Schedule of Offenses*

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.430(d), OP has not identified any that directly relate to a necessary duty or responsibility of the occupation of operating a crane.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.430(d). Reasons for removal include that they are repetitive of the violent and drug-related offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of operating a crane:

- 18 Pa.C.S. § 2506(a) – Drug delivery resulting in death
- 18 Pa.C.S. § 3313 – Illegal dumping of methamphetamine waste
- 18 Pa.C.S. § 3928 – Unauthorized use of automobiles and other vehicles
- 18 Pa.C.S. § 3935.1 – Theft of secondary metal
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 7508.2 – Operation of a methamphetamine laboratory
- 35 P.S. § 780-113(a)(1), (12), (14), (16), (30), (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 75 Pa.C.S. § 3732 – Homicide by vehicle
- 75 Pa.C.S. § 3732.1 – Aggravated assault by vehicle
- 75 Pa.C.S. § 3735 – Homicide by vehicle while driving under the influence
- 75 Pa.C.S. § 3735.1 – Aggravated assault by vehicle while driving under the influence
- 75 Pa.C.S. § 3802 – Driving under the influence of alcohol or controlled substances
- 75 Pa.C.S. § 3808 – Illegally operating a motor vehicle not equipped with ignition interlock
- 75 Pa.C.S. § 3809 – Restrictions on alcoholic beverages

## **State Board of Dentistry**

### ***License Types***

- Dentist
- Dental Hygienist
- Dental Assistant
- Public Health Dental Hygiene Practitioner

### ***Necessary Duties and Responsibilities***

Someone engages in the practice of dentistry who “diagnoses, treats, operates on, or prescribes for any disease, pain or injury, or regulates any deformity or physical condition, of the human teeth, jaws, or associated structures, or conducts a physical evaluation, or administers anesthetic agents, or uses ionizing radiation in the course of dental practice, or who fits, constructs, and inserts any artificial appliance, plate, or denture for the human teeth or jaws.” 63 P.S. § 121.

Specific job functions include:

- Protect patients or staff members using safety equipment.
- Operate diagnostic or therapeutic dental instruments or equipment.
- Examine mouth, teeth, gums, or related facial structures.
- Operate diagnostic imaging equipment.
- Administer anesthetics or sedatives to control pain.
- Develop dental treatment plans.
- Treat dental problems or diseases.
- Diagnose dental conditions.
- Adjust prostheses or other assistive devices.
- Advise patients on preventive care techniques.

- Design dental devices or appliances.
- Fabricate dental devices.
- Prescribe medications.
- Operate on patients to treat dental conditions.
- Analyze patient data to determine patient needs or treatment goals.
- Supervise patient care personnel.
- Design public or employee dental health programs.
- Direct dental healthcare delivery programs.
- Prepare dental healthcare training materials.
- Record patient medical histories.
- Collect medical information from patients, family members, or other medical professionals.
- Diagnose dental conditions.
- Gather medical information from patient histories.
- Advise patients on effects of dental health conditions or treatments.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.431(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of dentistry.

- 18 Pa.C.S. § 4913 – impersonating a notary public or holder of a professional or occupational license
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 35 P.S. § 780-113(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (33), (35), (36), and (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 62 P.S. § 1407 – Medicaid services fraud
- 63 P.S. § 129 – Unlawful acts under Section 10 of the Dental Law
- 63 P.S. § 390-8 – relating to criminal offenses under the Pharmacy Act
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.431(e). Reasons for removal include that they are duplicative of the violent, sexual, and drug trafficking offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of dentistry.

- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 4101 – Criminal forgery

- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4911 – Tampering with public records or information
- 18 Pa.C.S. § 7611 – Unlawful use of computer and other computer crimes
- 18 Pa.C.S. § 7615 – Computer trespass
- 23 Pa.C.S. § 6346 – Willful failure to cooperate with an investigation of suspected child abuse
- 35 P.S. § 780-113(a)(32) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act

## **State Board of Examiners in Speech-Language Pathology & Audiology**

### ***License Types***

- Speech-Language Pathologist
- Audiologist

### ***Necessary Duties and Responsibilities***

Practicing audiology is “the application of principles, methods and procedures related to disorders of the auditory and vestibular systems” and includes: “prevention of hearing loss by designing, implementing and coordinating industrial, school and community-based hearing conservation programs; identification of dysfunction of hearing, balance and other auditory-related systems by developing and overseeing hearing and balance-related screening programs for persons of all ages, including newborn and school screening programs; administration of speech or language screening or other measures for the purpose of initial identification and referral of persons with other communicative disorders; assessment and nonmedical diagnosis and treatment of hearing and vestibular disorders through the administration of behavioral, psychoacoustic, electrophysiologic tests of the peripheral and central auditory and vestibular systems using standardized test procedures, including, but not limited to, audiometry, tympanometry, acoustic reflex measures, otoacoustic emissions, auditory evoked potentials, video and electronystagmography and tests of central auditory function using calibrated instrumentation leading to the diagnosis of auditory and vestibular dysfunction abnormality; assessment of candidacy of persons with hearing loss for cochlear implants; nonmedical treatment for persons with impairment of auditory function utilizing amplification and other assistive devices; selection, fitting, evaluation and dispensing of hearing aids and other amplification systems; fitting and mapping of cochlear implant devices and audiologic rehabilitation to optimize device use; fitting of middle ear implantable hearing aids, fully implantable hearing aids and bone-anchored hearing aids; conducting otoscopic examinations; nonmedical treatment of persons with tinnitus using techniques including biofeedback, masking, hearing aids, education and counseling; counseling on the psychosocial aspects of hearing loss and the use of amplification systems; administration of electrophysiologic measures of neural function, including, but not limited to, sensory and motor-evoked potentials, preoperative and postoperative evaluation of neural function, neurophysiologic intraoperative monitoring of the central nervous system, spinal cord and

cranial nerve function, provided that an audiologist shall not perform neurophysiologic intraoperative monitoring except upon delegation from and under the overall direction of a physician, and the audiologist shall be certified by the board under section 8.1; and referral of persons with auditory and vestibular dysfunction abnormalities to an appropriate physician for medical evaluation when indicated based upon the interpretation of the audiologic and vestibular test results.” 63 P.S. § 1703.

Practicing speech-language pathology is “the application of principles, methods and procedures of prevention, screening, consultation, identification, assessment and evaluation, determination of disorders and service delivery model, nonmedical treatment and intervention, counseling, collaboration and referral services for persons with known or suspected language, cognitive and linguistic, social, speech (resonance and voice, fluency and sound production), feeding and swallowing, orofacial myofunctional disorders or communication disorders” and includes: “elective modification of communication behaviors and enhancement of communication; identification of nonmedical speech, language, swallowing, cognitive and social aspects of communication by developing and providing speech, language, voice, swallowing, cognitive and social aspects of communication-related screening programs for persons of all ages; providing nonmedical diagnosis, evaluation and remediation services for disorders of speech, language, voice, swallowing, cognitive and social aspects of communication; establishing augmentative and alternative communication techniques and strategies, including selecting, recommending and dispensing of augmentative aids and devices; providing nonmedical services to individuals with hearing loss and their families, that is, auditory training, speech reading and speech and language intervention secondary to hearing loss; providing hearing screening limited to pass or fail for the purposes of identification of individuals with potential disorders of hearing; the training of individuals, their families and other communication partners in the use, selecting, fitting and establishment of effective use of appropriate prosthetic and adaptive devices for speaking and swallowing; using instrumental technology to provide nonmedical diagnosis, nonmedical treatment and nonmedical services for disorders of communication, voice and swallowing.” 63 P.S. § 1703.

Specific job functions for an audiologist include:

- Maintain patient records at all stages, including initial and subsequent evaluation and treatment activities.
- Evaluate hearing and balance disorders to determine diagnoses and courses of treatment.
- Fit, dispense, and repair assistive devices, such as hearing aids.
- Administer hearing tests and examine patients to collect information on type and degree of impairment, using specialized instruments and electronic equipment.
- Monitor patients’ progress and provide ongoing observation of hearing or balance status.

Specific job functions for a speech-language pathologist include:

- Evaluate hearing or speech and language test results, barium swallow results, or medical or background information to diagnose and plan treatment for speech, language, fluency, voice, or swallowing disorders.

- Write reports and maintain proper documentation of information, such as client Medicaid or billing records or caseload activities, including the initial evaluation, treatment, progress, and discharge of clients.
- Monitor patients' progress and adjust treatments accordingly.
- Develop or implement treatment plans for problems such as stuttering, delayed language, swallowing disorders, or inappropriate pitch or harsh voice problems, based on own assessments and recommendations of physicians, psychologists, or social workers.
- Administer hearing or speech and language evaluations, tests, or examinations to patients to collect information on type and degree of impairments, using written or oral tests or special instruments.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.449(d), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of audiology and speech-language pathology:

- 18 Pa.C.S. § 2713 – Neglect of a care-dependent person
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 62 P.S. § 1407 – Medicaid services fraud
- 63 P.S. § 1718(a) – Misdemeanor violations of the Speech-Language Pathologists and Audiologists Licensure Act
- 77 P.S. § 1039.2 – Offenses pertaining to insurance fraud under the Workers' Compensation Act
- 18 U.S.C. § 1035 – False statements relating to health care matters
- 18 U.S.C. § 1347 – Health care fraud
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.449(d). Reasons for removal include that they are repetitive of the violent, sexual, and drug-related offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of audiology and speech-language pathology:

- 18 Pa.C.S. § 2709.1 – Stalking
- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception

- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3927 – Theft of failure to make required disposition of funds
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records and identification
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4304 – Endangering welfare of children
- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4911 – Tampering with public records
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 5101 – Obstructing administration of law or other governmental function
- 18 Pa.C.S. § 5105 – Hindering apprehension or prosecution
- 18 Pa.C.S. § 5111 – Dealing in proceeds of unlawful activity
- 18 U.S.C.A, § 1341 – Mail fraud
- 26 U.S.C.A. § 7206 – Filing fraudulent income tax returns

## **State Board of Examiners of Nursing Home Administrators**

### *License Types*

- Nursing Home Administrator

### *Necessary Duties and Responsibilities*

A “nursing home administrator” is charged with the general administration of a nursing home, which is any “institution or facility in which nursing care and related medical or other health services are provided for a period exceeding twenty-four hours, for two or more individuals, who are not relatives of the administrator who are not acutely ill and not in need of hospitalization, but who, because of age, illness, disease, injury, convalescence or physical or medical infirmity need such care.” 63 P.S. § 1102.

Specific job functions include:

- Evaluate employee performance.
- Supervise employees.
- Develop computer or information systems.
- Maintain operational records.

- Conduct employee training programs.
- Implement organizational process or policy changes.
- Manage human resources activities.
- Direct financial operations.
- Maintain knowledge of current developments in area of expertise.
- Prepare operational budgets.
- Monitor performance of organizational members or partners.
- Monitor resources.
- Prepare staff schedules or work assignments.
- Hire personnel.
- Manage operations, research, or logistics projects.
- Recruit personnel.
- Liaise between departments or other groups to improve function or communication.
- Develop organizational goals or objectives.
- Develop procedures to evaluate organizational activities.
- Develop operating strategies, plans, or procedures.
- Develop organizational policies or programs.
- Analyze risks to minimize losses or damages.
- Monitor facilities or operational systems.
- Prepare operational progress or status reports.
- Advise others on legal or regulatory compliance matters.
- Inspect condition or functioning of facilities or equipment.
- Coordinate operational activities with external stakeholders.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.439(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of nursing home administration.

- 18 Pa.C.S. § 2505 – Causing or aiding suicide
- 18 Pa.C.S. § 2713 – Neglect of care-dependent person
- 18 Pa.C.S. § 2713.1 – Abuse of care-dependent person
- 18 Pa.C.S. § 4911 – Tampering with records or identification
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 18 Pa.C.S. § 5106 – Failure to report injuries by firearm or criminal act
- 18 Pa.C.S. § 5112 – Obstructing emergency services
- 18 Pa.C.S. § 5510 – Abuse of corpse
- 18 Pa.C.S. § 7509 – Furnishing of drug-free urine
- 62 P.S. § 1407 – Medicaid services fraud
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud
- 63 P.S. § 390-8(13) – Procuring a drug by fraud in violation of the Pharmacy Act
- 63 P.S. § 1111 – Criminal penalties for unlicensed practice and other violations of the Nursing Home Administrators Act

- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.439(c). Reasons for removal include that they are repetitive of the violent, sexual, and drug-related offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of nursing home administration:

- 18 Pa.C.S. § 907 – Possessing instruments of crime
- 18 Pa.C.S. § 908 – Prohibited offensive weapons
- 18 Pa.C.S. § 908.1 – Use or possession of electric or electronic incapacitation device
- 18 Pa.C.S. § 2501 – Criminal homicide
- 18 Pa.C.S. § 2504 – Involuntary manslaughter
- 18 Pa.C.S. § 2506 – Drug delivery resulting in death
- 18 Pa.C.S. § 2701 – Simple assault
- 18 Pa.C.S. § 2702 – Aggravated assault
- 18 Pa.C.S. § 2706(a)(1) – Terroristic threats
- 18 Pa.C.S. § 2707.1 – Discharge of firearm into an occupied structure
- 18 Pa.C.S. § 2709 – Harassment
- 18 Pa.C.S. § 2709.1 – Stalking
- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 2718 – Strangulation
- 18 Pa.C.S. § 2901 – Kidnapping
- 18 Pa.C.S. § 2902 – Unlawful restraint
- 18 Pa.C.S. § 2903 – False imprisonment
- 18 Pa.C.S. § 3011 – Trafficking in individuals
- 18 Pa.C.S. § 3012 – Involuntary servitude
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3121 – Rape
- 18 Pa.C.S. § 3123 – Involuntary deviate sexual intercourse
- 18 Pa.C.S. § 3124.1 – Sexual assault
- 18 Pa.C.S. § 3124.2 – Institutional sexual assault
- 18 Pa.C.S. § 3124.3 – Sexual assault by sports official, volunteer or employee of nonprofit association
- 18 Pa.C.S. § 3125 – Aggravated indecent assault
- 18 Pa.C.S. § 3126 – Indecent assault
- 18 Pa.C.S. § 3127 – Indecent exposure
- 18 Pa.C.S. § 3130 – Conduct relating to sex offenders – violating conditions of probation/parole
- 18 Pa.C.S. § 3131 – Unlawful dissemination of intimate image
- 18 Pa.C.S. § 3132 – Female mutilation
- 18 Pa.C.S. § 3133 – Sexual extortion

- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid or delivered by mistake
- 18 Pa.C.S. § 3925 – Receiving stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 3930 – Theft of trade secrets
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4105 – Passing or issuing bad checks (felony only)
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4113 – Misapplication of entrusted property and property of government or financial institutions
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4121 – Possession and use of unlawful devices
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4905 – False alarms to agencies of public safety
- 18 Pa.C.S. § 4906 – False reports to law enforcement authorities
- 18 Pa.C.S. § 4910 – Tampering with or fabricating physical evidence
- 18 Pa.C.S. § 4914 – False identification to law enforcement authorities
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 5123 – Contraband
- 18 Pa.C.S. § 7507.1 – Invasion of privacy
- 18 Pa.C.S. § 7611 – Unlawful use of computer and other computer crimes
- 18 Pa.C.S. § 7613 – Computer theft
- 18 Pa.C.S. § 7615(a)(3) – Computer trespass
- 35 P.S. § 780-113 – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act

## **State Board of Funeral Directors**

### ***License Types***

- Funeral Director
- Funeral Resident Intern
- Funeral Trainee
- Funeral Supervisor

### ***Necessary Duties and Responsibilities***

A “funeral director” includes those “engaged in the profession of a funeral director or in the care and disposition of the human dead;” “in the practice of disinfecting and preparing by embalming the human dead for the funeral service, burial or cremation, or the supervising of the burial, transportation or disposal of deceased human bodies, or in the practice of funeral directing or embalming as presently known, whether under these titles or designation or otherwise;” or “who make[] arrangements for funeral service and who sell[] funeral merchandise to the public incidental to such service or who make[] financial arrangements for the rendering of such services and the sale of such merchandise.” 63 P.S. § 479.2(1).

Specific job functions include:

- Obtain information needed to complete legal documents, such as death certificates or burial permits.
- Consult with families or friends of the deceased to arrange funeral details, such as obituary notice wording, casket selection, or plans for services.
- Perform embalming duties, as necessary.
- Oversee the preparation and care of the remains of people who have died.
- Contact cemeteries to schedule the opening and closing of graves.
- Remove deceased remains from place of death.
- Arrange for clergy members to perform needed services.
- Provide information on funeral service options, products, or merchandise, and maintain a casket display area.
- Maintain financial records, order merchandise, or prepare accounts.
- Plan, schedule, or coordinate funerals, burials, or cremations, arranging details such as floral delivery or the time and place of services.
- Close caskets and lead funeral corteges to churches or burial sites.
- Plan placement of caskets at funeral sites or place or adjust lights, fixtures, or floral displays.
- Manage funeral home operations, including the hiring, training, or supervision of embalmers, funeral attendants, or other staff.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.433(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of funeral directing.

- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 4104(a) – Tampering with records or identification (misdemeanor only)
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4113 – Misapplication of entrusted property and property of government or financial institutions
- 18 Pa.C.S. § 4910 – Tampering with or fabricating physical evidence
- 18 Pa.C.S. § 4911 – Tampering with public records or information

- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 18 Pa.C.S. § 5110 – Abuse of corpse
- 18 Pa.C.S. § 7310 – Furnishing insurance as inducement for purchases
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.433(c). Reasons for removal include that they are duplicative of the violent offenses already listed in the statute and restated in the proposed regulation, and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of funeral directing.

- 18 Pa.C.S. § 3921 – Theft by taking
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receiving stolen property
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4104 – Tampering with records or identification (summary offense)
- 18 Pa.C.S. § 4105 – Passing or issuing bad checks (felony only)
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4108 – Commercial bribery and breach of duty to act disinterestedly
- 18 Pa.C.S. § 4112 – Receiving deposits in a failing financial institution
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4701 – Bribery in official and political matters
- 18 Pa.C.S. § 4702 – Threats or other improper influence in political matters
- 18 Pa.C.S. § 4703 – Retaliation for past official action
- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 5101 – Obstructing administration of law or other governmental function
- 18 Pa.C.S. § 7308 – Unlawful advertising of insurance business

## **State Board of Landscape Architects**

### *License Types*

- Landscape Architect

### ***Necessary Duties and Responsibilities***

The “[p]ractice of landscape architecture” “means the performance of professional services such as consultation, investigation, research, planning, design, preparation of drawings and specifications, or responsible observation of construction in connection with the development of land areas where, and to the extent that, the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, planting, naturalistic and aesthetic values, the settings and approaches to structures or other circulation improvements, the shaping and contouring of land and water forms, the setting of grades and determining drainage and providing for storm water management and determination of environmental impacts and problems of land including erosion and sedimentation, blight and other hazards.” 63 P.S. § 902(4). To the extent this includes “preparing planting plans and items incidental thereto,” it is not meant to be exclusive, as “those engaged in nursery occupations or as gardeners or landscape contractors” are permitted to continue these practices. *Id.*

Specific job functions include:

- Confer with clients, engineering personnel, or architects on landscape projects.
- Integrate existing land features or landscaping into designs.
- Inspect landscape work to ensure compliance with specifications, evaluate quality of materials or work, or advise clients or construction personnel.
- Analyze data on conditions such as site location, drainage, or structure location for environmental reports or landscaping plans.
- Develop marketing materials, proposals, or presentations to generate new work opportunities.
- Manage the work of subcontractors to ensure quality control.
- Present project plans or designs to public stakeholders, such as government agencies or community groups.
- Prepare site plans, specifications, or cost estimates for land development.
- Create landscapes that minimize water consumption such as by incorporating drought-resistant grasses or indigenous plants.
- Develop planting plans to help clients garden productively or to achieve particular aesthetic effects.
- Collaborate with estimators to cost projects, create project plans, or coordinate bids from landscaping contractors.
- Inspect proposed sites to identify structural elements of land areas or other important site information, such as soil condition, existing landscaping, or the proximity of water management facilities.
- Collaborate with architects or related professionals on whole building design to maximize the aesthetic features of structures or surrounding land and to improve energy efficiency.
- Prepare conceptual drawings, graphics, or other visual representations of land areas to show

- predicted growth or development of land areas over time.
- Design and integrate rainwater harvesting or gray and reclaimed water systems to conserve water into building or land designs.
- Research latest products, technology, or design trends to stay current in the field.
- Provide follow-up consultations for clients to ensure landscape designs are maturing or developing as planned.
- Identify and select appropriate sustainable materials for use in landscape designs, such as recycled wood or recycled concrete boards for structural elements or recycled tires for playground bedding.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.434(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of landscape architecture.

- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104(a) – Tampering with records or identification (misdemeanor only)
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.434(c). Reasons for removal include that they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of landscape architecture.

- 18 Pa.C.S. § 3921 – Theft by unlawful taking
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receipt of stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4105 – Passing or issuing bad checks (felony only)
- 18 Pa.C.S. § 4107 – Committing deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery and criminal breach of duty to act disinterestedly
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed

- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4121 – Possession and use of unlawful devices
- 73 P.S. § 517.8 – Home improvement fraud

## **State Board of Massage Therapy**

### *License Types*

- Massage Therapist

### *Necessary Duties and Responsibilities*

The practice of massage therapy is “the application of a system of structured touch, pressure, movement, holding and treatment of the soft tissue manifestations of the human body in which the primary intent is to enhance the health and well-being of the client without limitation. It includes the external application of water, heat, cold, lubricants or other topical preparations, lymphatic techniques, myofascial release techniques and the use of electro-mechanical devices which mimic or enhance the action of the massage techniques.” 63 P.S. § 627.2.

Specific job functions include:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Interview patients to gather medical information.</li> <li>• Administer massage therapy to patients using hands or physical aids.</li> <li>• Clean facilities or equipment.</li> <li>• Stock supplies or merchandise.</li> </ul> | <ul style="list-style-type: none"> <li>• Develop patient massage therapy programs.</li> <li>• Assess physical conditions of patients.</li> <li>• Maintain medical records.</li> <li>• Confer with other professionals to plan patient care.</li> </ul> |
|---|--|

### *Proposed Schedule of Offenses*

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.435(d), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of massage therapy.

- 18 Pa.C.S. § 2713 – Neglect of care-dependent person
- 18 Pa.C.S. § 2713.1 – Abuse of care-dependent person
- 18 Pa.C.S. § 3121 – Rape
- 18 Pa.C.S. § 3123 – Involuntary deviate sexual intercourse
- 18 Pa.C.S. § 3124.1 – Sexual assault
- 18 Pa.C.S. § 3125 – Aggravated indecent assault
- 18 Pa.C.S. § 3126 – Indecent assault
- 18 Pa.C.S. § 5902(b) or (b.1) – Promoting prostitution and promoting prostitution of a minor
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse

- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.435(d). Reasons for removal include that they are repetitive of the violent, sexual, and drug-related offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of massage therapy:

- 18 Pa.C.S. § 2705 – Recklessly endangering another person
- 18 Pa.C.S. § 2910 – Luring a child into a motor vehicle or structure
- 18 Pa.C.S. § 3011 – Human trafficking
- 18 Pa.C.S. § 3012 – Involuntary servitude
- 18 Pa.C.S. § 3013 – Patronizing a victim of sexual servitude
- 18 Pa.C.S. § 3014 – Unlawful conduct regarding documents
- 18 Pa.C.S. § 3015 – Nonpayment of wages
- 18 Pa.C.S. § 3022 – Employing victims of human trafficking
- 18 Pa.C.S. § 3122.1 – Statutory sexual assault
- 18 Pa.C.S. § 3124.2 – Institutional sexual assault
- 18 Pa.C.S. § 3124.3 – Sexual assault by a sports official, volunteer or employee of nonprofit association
- 18 Pa.C.S. § 3127 – Indecent exposure
- 18 Pa.C.S. § 3129 – Sexual intercourse with an animal
- 18 Pa.C.S. § 3130 – Conduct relating to sex offenders failing to comply with requirements of probation or parole
- 18 Pa.C.S. § 3131 – Unlawful dissemination of intimate image
- 18 Pa.C.S. § 3132 – Female mutilation
- 18 Pa.C.S. § 3133 – Sexual extortion
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4302 – Incest
- 18 Pa.C.S. § 4304 – Endangering welfare of children
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 5901 – Open lewdness
- 18 Pa.C.S. § 5903 – Obscene and other sexual materials and performance
- 18 Pa.C.S. § 6301 (a)(1)(i) and (ii) – Corruption of minors
- 18 Pa.C.S. § 6312 – Sexual abuse of children
- 18 Pa.C.S. § 6318 – Unlawful contact with a minor
- 18 Pa.C.S. § 6320 – Sexual exploitation of children
- 18 Pa.C.S. § 7507.1 – Invasion of privacy

## **State Board of Medicine & State Board of Osteopathic Medicine**

### ***License Types***

#### Medicine

- Acupuncturist
- Athletic Trainer
- Behavior Specialist
- Certified Nurse Midwife
- Orthotic Fitter
- Genetic Counselor
- Orthotist
- Perfusionist
- Podiatrist
- Physician & Surgeon
- Physician Acupuncturist
- Physician Assistant
- Practitioner of Oriental Medicine
- Prosthetist
- Respiratory Therapist

#### Osteopathic Medicine

- Osteopathic Physician and Surgeon
- Osteopathic Acupuncturist
- Osteopathic Genetic Counselor
- Osteopathic Perfusionist
- Osteopathic Physician Assistant
- Osteopathic Respiratory Therapist

### ***Necessary Duties and Responsibilities***

The practice of medicine is, broadly, the “art and science of which the objectives are the cure of diseases and the preservation of the health of man, including the practice of the healing art with or without drugs.” 63 P.S. § 422.2. *See also id.* § 271.2 (providing a similar definition for the practice of osteopathic medicine).

Specific job functions include:<sup>10</sup>

- Analyze test data or images to inform diagnosis or treatment.
- Treat chronic diseases or disorders.
- Administer medications.
- Prescribe medications.
- Prescribe treatments or therapies.
- Treat acute illnesses, infections, or injuries.
- Diagnose medical conditions.
- Explain medical procedures or test results to patients or family members.
- Advise communities or institutions regarding health or safety issues.
- Provide health and wellness advice to patients, program participants, or caregivers.
- Monitor patient progress or responses to treatments.
- Refer patients to other healthcare practitioners or health resources.
- Collect medical information from patients, family members, or other medical professionals.

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<sup>10</sup> This list comes from the O\*NET information on “General Internal Medicine Physicians,” “Physical Medicine and Rehabilitation Physicians,” and “Respiratory Therapists.”

- Record patient medical histories.
- Advise medical personnel regarding healthcare issues.
- Immunize patients.
- Supervise patient care personnel.
- Conduct research to increase knowledge about medical issues.
- Operate on patients to treat conditions.
- Design public or employee health programs.
- Direct healthcare delivery programs.
- Prepare official health documents or records.
- Adjust prostheses or other assistive devices.
- Fabricate medical devices.
- Maintain medical facility records.
- Manage healthcare operations.
- Order medical supplies or equipment.
- Communicate health and wellness information to the public.
- Treat patients using alternative medical procedures.
- Operate diagnostic or therapeutic medical instruments or equipment.
- Prepare medical supplies or equipment for use.
- Gather medical information from patient histories.
- Clean medical equipment or facilities.

### *Proposed Schedule of Offenses*<sup>11</sup>

From the proposed schedule of offenses in reg. no. 16A-66 §§ 43b.436(e) and 43b.442(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupations licensed by the State Board of Medicine and State Board of Osteopathic Medicine.

- 18 Pa.C.S. § 2713 – Neglect of care-dependent person
- 18 Pa.C.S. § 2713.1 – Abuse of care-dependent person
- 18 Pa.C.S. § 3212 – Infanticide
- 18 Pa.C.S. § 3216 – Fetal experimentation
- 18 Pa.C.S. § 4305 – Dealing in infant children
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 18 Pa.C.S. § 4958 – Intimidation, retaliation or obstruction in child abuse cases
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 23 Pa.C.S. § 6346 – Willful failure to cooperate in investigation of child abuse
- 35 P.S. § 780-113(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36), and (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 62 P.S. § 1407 – Medicaid services fraud
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud
- 63 P.S. § 422.39(a) – Unauthorized practice of medicine and surgery and other criminal offenses under the Medical Practice Act of 1985

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<sup>11</sup> The Boards of Medicine and Osteopathic Medicine proposed identical schedules of related offenses, and OP recommends revising each as proposed here.

- 63 P.S. § 271.11(a) – Unauthorized practice of osteopathic medicine and surgery and other criminal offenses under the Osteopathic Medical Practice Act
- 63 P.S. § 390-8 – relating to criminal offenses under the Pharmacy Act
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in §§ 43b.436(e) and 43b.442(e). Reasons for removal include that they are duplicative of the violent, sexual, and drug trafficking offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of the practice of medicine.

- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 2905 – Interfere with custody of committed person
- 18 Pa.C.S. §§ 3011–3015 – relating to human trafficking
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3211 – Abortion on unborn child of 24 or more weeks gestational age
- 18 Pa.C.S. § 3213 – Prohibited acts (relating to accepting fees and other regulations for providing abortive and other reproductive services)
- 18 Pa.C.S. § 4303 – Concealing death of a child
- 18 Pa.C.S. § 4303 – Concealing death of a child
- 18 Pa.C.S. § 4304 – Endangering welfare of a child
- 18 Pa.C.S. § 4911 – Tampering with public records
- 35 P.S. § 780-113(a)(32), (33) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act

## **State Board of Nursing**

### *License Types*

- Clinical Nurse Specialist
- Certified Registered Nurse Practitioner
- Licensed Dietitian-Nutritionist
- Licensed Practical Nurse
- Registered Nurse

### *Necessary Duties and Responsibilities*

“The ‘Practice of Professional Nursing’ means diagnosing and treating human responses to actual or potential health problems through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens as prescribed by a licensed physician or dentist.” 63 P.S. § 212(1). Certified registered

nurse practitioners may also perform “acts of medical diagnosis or prescription of medical therapeutic or corrective measures” in certain circumstances. 49 Pa. Code § 21.251.

Specific job functions include:

- Record patient medical histories.
- Monitor patient conditions during treatments, procedures, or activities.
- Measure the physical or physiological attributes of patients.
- Administer basic health care or medical treatments.
- Administer intravenous medications.
- Apply bandages, dressings, or splints.
- Assist patients with hygiene or daily living activities.
- Supervise patient care personnel.
- Train patients, family members, or caregivers in techniques for managing disabilities or illnesses.
- Collaborate with healthcare professionals to plan or provide treatment.
- Analyze quantitative data to determine effectiveness of treatments or therapies.
- Sterilize medical equipment or instruments.
- Prepare medical supplies or equipment for use.
- Operate diagnostic or therapeutic medical instruments or equipment.
- Maintain medical facility records.
- Perform clerical work in medical settings.
- Schedule patient procedures or appointments.
- Collect biological specimens from patients.
- Test biological specimens to gather information about patient conditions.
- Manage preparation of special meals or diets.
- Explain medical procedures or test results to patients or family members.
- Prepare patients physically for medical procedures.
- Clean medical equipment or facilities.
- Maintain inventory of medical supplies or equipment.
- Order medical supplies or equipment.
- Assist healthcare practitioners during examinations or treatments.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.438(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of nursing.

- 18 Pa.C.S. § 2505 – Causing or aiding suicide
- 18 Pa.C.S. § 2605 – Voluntary manslaughter of unborn child
- 18 Pa.C.S. § 2713 – Neglect of care-dependent person
- 18 Pa.C.S. § 2713.1 – Abuse of care-dependent person
- 18 Pa.C.S. § 3212 – Infanticide
- 18 Pa.C.S. § 3216 – Fetal experimentation
- 18 Pa.C.S. § 4305 – Dealing in infant children
- 18 Pa.C.S. § 4906.1 – False reports of child abuse

- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 18 Pa.C.S. § 4958 – Intimidation, retaliation or obstruction in child abuse cases
- 18 Pa.C.S. § 5106 – Failure to report injuries by firearm or criminal act
- 18 Pa.C.S. § 5112 – Obstructing emergency services
- 18 Pa.C.S. § 5510 – Abuse of corpse
- 18 Pa.C.S. § 7508.2 – Operation of methamphetamine laboratory
- 18 Pa.C.S. § 7509 – Furnishing drug-free urine
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 35 P.S. §§ 780-113(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36), (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 35 P.S. § 10231.1302 – Criminal diversion of medical marijuana
- 35 P.S. § 10231.1306 – Adulteration of medical marijuana
- 62 P.S. § 1407 – Medicaid services fraud
- 63 P.S. § 223(a) – Professional Nursing Law violations
- 63 P.S. § 390-8(13) and (15) – Procuring a drug by fraud in violation of the Pharmacy Act
- 63 P.S. § 665 – Practical Nursing Law violations
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.438(e). Reasons for removal include that they are duplicative of the violent, sexual, and drug trafficking offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of nursing.

- 18 Pa.C.S. § 2501 – Criminal homicide
- 18 Pa.C.S. § 2504 – Involuntary manslaughter if the conduct is reckless or negligent<sup>12</sup>
- 18 Pa.C.S. § 2603 – Criminal homicide of unborn child
- 18 Pa.C.S. § 2701 – Simple assault
- 18 Pa.C.S. § 2706(a)(1) – Terroristic threats
- 18 Pa.C.S. § 2707.1 – Discharge of firearm into an occupied structure
- 18 Pa.C.S. § 2709 – Harassment
- 18 Pa.C.S. § 2709.1 – Stalking
- 18 Pa.C.S. § 2902 – Unlawful restraint
- 18 Pa.C.S. § 2909 – Concealment of whereabouts of a child

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<sup>12</sup> Except in some cases, involuntary manslaughter is only a first degree misdemeanor, and is not directly related to a necessary duty or responsibility of nursing.

- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking<sup>13</sup>
- 18 Pa.C.S. § 3211 – Abortion on unborn child of 24 or more weeks gestational age
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3925 – Receiving stolen property
- 18 Pa.C.S. § 3929 – Retail theft
- 18 Pa.C.S. § 3929.3 – Organized retail theft
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4121 – Possession and use of unlawful devices
- 18 Pa.C.S. § 4303 – Concealing death of child<sup>14</sup>
- 18 Pa.C.S. § 4304 – Endangering welfare of children
- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4905 – False alarms to agencies of public safety
- 18 Pa.C.S. § 4906 – False reports to law enforcement authorities
- 18 Pa.C.S. § 4909 – Witness or informant taking bribe
- 18 Pa.C.S. § 4910 – Tampering with or fabricating physical evidence
- 18 Pa.C.S. § 4911 – Tampering with public records or information
- 18 Pa.C.S. § 4914 – False identification to law enforcement authorities
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 4953.1 – Retaliation against prosecutor or judicial official
- 18 Pa.C.S. § 5105(a)(3) and (5) – Hindering apprehension or prosecution
- 18 Pa.C.S. § 5123(a), (a.2), (c) – Contraband
- 18 Pa.C.S. § 7313 – Buying or exchanging Federal Supplemental Nutrition Assistance Program (SNAP) benefit coupons, stamps, authorization cards or access devices
- 18 Pa.C.S. § 7314 – Fraudulent traffic in Supplemental Nutrition Assistance Program (SNAP) benefits
- 18 Pa.C.S. § 7611 – Unlawful use of computer and other computer crimes
- 18 Pa.C.S. § 7613 – Computer theft
- 18 Pa.C.S. § 7615(a)(3) – Computer trespass

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<sup>13</sup> This is not a separate offense; rather, it is a specific penalty for licensees engaging in human trafficking (which already is captured in the list of violent crimes).

<sup>14</sup> This crime relates to concealing the death of the offender's own child, which is not directly related to the occupation of nursing.

- 35 P.S. §§ 780-113(a)(1), (16), (19), (31), (32), (33) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 63 P.S. § 224(a) – Refusal, Suspension or Revocation of Licenses. (Professional Nursing Law)<sup>15</sup>
- 63 P.S. § 666(a) – Refusal, Suspension or Revocation of Licenses; Grounds. (Practical Nurse Law)<sup>16</sup>
- 75 Pa.C.S. § 3735 – Homicide by vehicle while driving under influence
- 75 Pa.C.S. § 3735.1 – Aggravated assault by vehicle while driving under the influence
- 75 Pa.C.S. § 3802 – Driving under influence of alcohol or controlled substance

## **State Board of Occupational Therapy Education and Licensure**

### *License Types*

- Occupational Therapist
- Occupational Therapy Assistant

### *Necessary Duties and Responsibilities*

Occupational therapy is “the evaluation of learning and performance skills and the analysis, selection and adaptation of activities for an individual whose abilities to cope with the activities of daily living, to perform tasks normally performed at a given stage of development and to perform essential vocational tasks which are threatened or impaired by that person’s developmental deficiencies, aging process, environmental deprivation or physical, psychological, injury or illness, through specific techniques which include: (1) Planning and implementing activity programs to improve sensory and motor functioning at the level of performance normal for the individual’s stage of development. (2) Teaching skills, behaviors, and attitudes crucial to the individual’s independent, productive and satisfying social functioning. (3) The design, fabrication, and application of orthotics to enhance performance in occupations, not to include prosthetic devices, and the adaptation of equipment necessary to assist patients in adjusting to a potential or actual impairment and instructing in the use of such devices and equipment. (4) Analyzing, selecting, and adapting activities to maintain the individual’s optimal performance of tasks to prevent disability.” 63 P.S. § 1503.

Specific job functions include:

- Analyze patient data to determine patient needs or treatment goals.
- Evaluate patient functioning, capabilities, or health.
- Record patient medical histories.
- Design public or employee health programs.
- Direct healthcare delivery programs.
- Develop treatment plans that use non-medical therapies.

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<sup>15</sup> This states that the Board is entitled to revoke/not grant a license for a variety of factors and is not an “offense” that should be included on this schedule.

<sup>16</sup> This states that the Board is entitled to revoke/not grant a license for a variety of factors and is not an “offense” that should be included on this schedule.

- Monitor patient progress or responses to treatments.
- Prepare reports summarizing patient diagnostic or care activities.
- Train caregivers or other non-medical personnel.
- Clean medical equipment or facilities.
- Collaborate with healthcare professionals to plan or provide treatment.
- Prepare medical supplies or equipment for use.
- Design medical devices or appliances.
- Fabricate medical devices.
- Provide health and wellness advice to patients, program participants, or caregivers.
- Supervise patient care personnel.
- Train medical providers.
- Conduct research to increase knowledge about medical issues.
- Advise communities or institutions regarding health or safety issues.
- Encourage patients or clients to develop life skills.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.440(d), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of occupational therapy.

- 18 Pa.C.S. § 2713 – Neglect of a care dependent person
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 62 P.S. § 1407 – Medicaid services fraud
- 63 P.S. § 1516 – Unlicensed practice and other misdemeanor violations of the occupational therapy practice act
- 77 P.S. § 1039.2 – Offenses pertaining to insurance fraud under the Workers’ Compensation Act
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.440(d). Reasons for removal include that they are repetitive of the violent, sexual, and drug-related offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of occupational therapy:

- 18 Pa.C.S. § 2709.1 – Stalking
- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition

- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery
- 18 Pa.C.S. § 4114 – Securing execution of documents by fraud
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4304 – Endangering welfare of children
- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4911 – Tampering with public records
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 5101 – Obstructing administration of law or other governmental function
- 18 Pa.C.S. § 5105 – Hindering apprehension or prosecution
- 18 Pa.C.S. § 5111 – Dealing in proceeds of unlawful activity
- 18 U.S.C.A. § 1341 – Mail fraud
- 26 U.S.C.A. § 7206 – Filing fraudulent income tax returns

## **State Board of Optometry**

### ***License Types***

- Optometrist – Therapeutic
- Optometrist – Therapeutic & Glaucoma
- Optometrist – Diagnostic

### ***Necessary Duties and Responsibilities***

Optometry includes the “use of any and all means or methods for the examination, diagnosis and treatment of all conditions of the human visual system,” including the “fitting of . . . contact lenses,” administration and prescription of drugs, the “removal of superficial foreign bodies from the ocular surface or adnexa,” “epinephrine auto-injectors for anaphylaxis,” and the “ordering and interpretation of angiography via noninvasive imaging.” 63 P.S. § 244.2.

Specific job functions include:

- Test patient vision.
- Analyze test data or images to inform diagnosis or treatment.

- Develop optometric treatment plans.
- Fit eyeglasses, contact lenses, or other vision aids.
- Prescribe assistive devices or related treatments.
- Prescribe approved medications.
- Train patients, family members, or caregivers in techniques for managing disabilities or illnesses.
- Monitor patients following treatments.
- Treat acute illnesses, infections, or injuries.
- Collaborate with healthcare professionals to plan or provide treatment.
- Refer patients to other healthcare practitioners or health resources.
- Prescribe treatments or therapies.
- Treat chronic diseases or disorders.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.441(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of optometry.

- 18 Pa.C.S. § 2713 – Neglect of care-dependent person
- 18 Pa.C.S. § 2713.1 – Abuse of care-dependent person
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 35 P.S. § 780-113(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36), and (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 63 P.S. § 390-8(13) – Procuring a drug by fraud in violation of the Pharmacy Act
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.441(e). Reasons for removal include that they are duplicative of the violent, sexual, and drug trafficking offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of the practice of optometry.

- 18 Pa.C.S. § 2502 – Murder
- 18 Pa.C.S. § 2503 – Voluntary manslaughter
- 18 Pa.C.S. § 2506 – Drug delivery resulting in death
- 18 Pa.C.S. § 2507 – Manslaughter of law enforcement officer
- 18 Pa.C.S. § 2604 – Murder of unborn child
- 18 Pa.C.S. § 2605 – Voluntary manslaughter of unborn child
- 18 Pa.C.S. § 2606 – Aggravated assault of unborn child
- 18 Pa.C.S. § 2702 – Aggravated assault
- 18 Pa.C.S. § 2702.1 – Assault of law enforcement officer
- 18 Pa.C.S. § 2705 – Recklessly endangering another person

- 18 Pa.C.S. § 2706 – Terroristic threats
- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 2715 – Threat to use weapons of mass destruction
- 18 Pa.C.S. § 2717 – Terrorism
- 18 Pa.C.S. § 2718 – Strangulation
- 18 Pa.C.S. § 2901 – Kidnapping
- 18 Pa.C.S. § 2910 – Luring a child into a motor vehicle or structure
- 18 Pa.C.S. § 3011 – Trafficking in individuals
- 18 Pa.C.S. § 3012 – Involuntary servitude
- 18 Pa.C.S. § 3013 – Patronizing a victim of sexual servitude
- 18 Pa.C.S. § 3014 – Unlawful conduct regarding documents
- 18 Pa.C.S. § 3015 – Nonpayment of wages
- 18 Pa.C.S. § 3016 – Obstruction of justice
- 18 Pa.C.S. § 3017 – Violation by business entities
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3121 – Rape
- 18 Pa.C.S. § 3122.1 – Statutory sexual assault
- 18 Pa.C.S. § 3123 – Involuntary deviate sexual intercourse
- 18 Pa.C.S. § 3124.1 – Sexual assault
- 18 Pa.C.S. § 3124.2 – Institutional sexual assault
- 18 Pa.C.S. § 3125 – Aggravated indecent assault
- 18 Pa.C.S. § 3126 – Indecent assault
- 18 Pa.C.S. § 3127 – Indecent exposure
- 18 Pa.C.S. § 3130 – Conduct relating to sex offenders
- 18 Pa.C.S. § 3131 – Unlawful dissemination of intimate image
- 18 Pa.C.S. § 3132 – Female mutilation
- 18 Pa.C.S. § 3133 – Sexual extortion
- 18 Pa.C.S. § 3301 – Arson and related offenses
- 18 Pa.C.S. § 3502 – Burglary
- 18 Pa.C.S. § 3701 – Robbery
- 18 Pa.C.S. § 3702 – Robbery of motor vehicle
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4304 – Endangering welfare of children
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities

- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 5901 – Open lewdness
- 18 Pa.C.S. § 5902 – Prostitution and related offense
- 18 Pa.C.S. § 5903 – Obscene and other sexual materials and performances
- 18 Pa.C.S. § 6301 – Corruption of minors
- 18 Pa.C.S. § 6312 – Sexual abuse of children
- 18 Pa.C.S. § 6318 – Unlawful contact with minor
- 18 Pa.C.S. § 6320 – Sexual exploitation of children
- 18 Pa.C.S. § 7507.1 – Invasion of privacy
- 35 P.S. § 780-113(a)(32), (33) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act

## **State Board of Pharmacy**

### *License Types*

- Pharmacist
- Authorization to Administer Injectables
- Pharmacy Intern

### *Necessary Duties and Responsibilities*

The practice of pharmacy includes “the interpretation, evaluation and implementation of medical orders for the provision of pharmacy services or prescription drug orders; the delivery, dispensing or distribution of prescription drugs; participation in drug and device selection; drug administration; drug regimen review; drug therapy management . . . ; maintaining proper records; [and] patient counseling.” 63 P.S. § 390-2.

Specific job functions include:

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Verify accuracy of patient information.</li> <li>• Advise patients on effects of health conditions or treatments.</li> <li>• Communicate detailed medical information to patients or family members.</li> <li>• Maintain medical facility/pharmacy records.</li> <li>• Advise medical personnel regarding healthcare issues.</li> <li>• Collaborate with healthcare professionals to plan or provide</li> </ul> | <ul style="list-style-type: none"> <li>treatment/management of drug therapy.</li> <li>• Determine protocols for -management of drug therapy/administration of injectable medications, biologics and immunizations.</li> <li>• Maintain inventory of medical supplies or equipment.</li> <li>• Order medical supplies or equipment.</li> <li>• Prepare medications or medical solutions.</li> <li>• Recommend types of assistive devices.</li> <li>• Manage healthcare operations.</li> </ul> |
|--|--|

- Merchandise healthcare products or services.
- Train medical providers.
- Instruct patients in the use of assistive equipment.
- Manage drug therapy for chronic diseases or disorders.
- Refer patients to other healthcare practitioners or health resources.
- Present medical research reports.
- Calculate numerical data for medical activities.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.443(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of pharmacy.

- 18 Pa.C.S. § 3313 – Illegal dumping of methamphetamine waste
- 18 Pa.C.S. § 3929.3 – Organized retail theft
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 35 P.S. § 780-113(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36), (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 35 P.S. § 10231.1302 – Criminal diversion of medical marijuana
- 35 P.S. § 10231.1306 – Adulteration of medical marijuana
- 62 P.S. § 1407 – Medicaid services fraud
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud
- 63 P.S. § 390-8 – relating to criminal offenses under the Pharmacy Act
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.443(e). Reasons for removal include that they are duplicative of the violent, sexual, and drug trafficking offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of the practice of pharmacy.

- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3502 – Burglary
- 18 Pa.C.S. § 3701 – Robbery
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake

- 18 Pa.C.S. § 3925 – Receiving stolen property
- 18 Pa.C.S. § 3929 – Retail theft (felony only)
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4910 – Tampering with or fabricating physical evidence
- 18 Pa.C.S. § 4911 – Tampering with public records or information
- 35 P.S. § 780-113 – relating to violations of the Controlled Substance, Drug, Device and Cosmetic Act<sup>17</sup>

## **State Board of Physical Therapy**

### *License Types*

- Physical Therapist
- Physical Therapy Assistant

### *Necessary Duties and Responsibilities*

Physical therapy includes: “(1) The evaluation, examination and testing of individuals with mechanical, physiological and developmental impairments, functional limitations and disabilities, other health-related or movement-related conditions, performed to determine a diagnosis, prognosis and plan of treatment intervention within the scope of this act or to assess the ongoing effects of intervention. (2) The performance of tests and measurements as an aid in diagnosis or evaluation of function and the treatment of the individual through the utilization of the effective properties of physical measures such as mechanical stimulation, heat, cold, light, air, water, electricity, sound, massage or mobilization-manual therapy. (3) The use of therapeutic exercises and rehabilitative procedures, including training in functional activities, with or without the utilization of assistive devices, for the purpose of limiting or preventing disability and alleviating or correcting any physical or mental conditions. (4) Reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health and wellness in populations of all ages as well as engaging in administration, consultation, education and research.” 63 P.S. § 1302.

Specific job functions include:

- Record patient medical histories.
- Analyze patient data to determine patient needs or treatment goals.

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<sup>17</sup> This is a reference to the entire list of offenses related to misuse of controlled substances, which is overbroad.

- Examine patients to assess general physical condition.
- Develop physical therapy treatment plans.
- Enter patient or treatment data into computers.
- Process healthcare paperwork.
- Treat patients using physical therapy techniques.
- Collaborate with healthcare professionals to plan or provide treatment.
- Evaluate patient outcomes to determine effectiveness of treatments.
- Monitor patient progress or responses to treatments.
- Train patients, family members, or caregivers in techniques for managing disabilities or illnesses.
- Supervise medical support personnel.
- Test patient heart or lung functioning.
- Establish treatment goals.
- Communicate health and wellness information to the public.
- Explain physical therapy procedures or test results to patients or family members.
- Refer patients to other healthcare practitioners or health resources.
- Communicate detailed medical information to patients or family members.
- Operate diagnostic or therapeutic medical instruments or equipment.
- Fabricate medical devices.
- Adjust prostheses or other assistive devices.
- Advise medical personnel regarding healthcare issues.
- Train medical providers.
- Conduct research to increase knowledge about medical issues.
- Advise others on matters of public policy.
- Design public or employee health programs.
- Direct healthcare delivery programs.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.444(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of physical therapy.

- 18 Pa.C.S. § 2713 – Neglect of care-dependent person
- 18 Pa.C.S. § 2713.1 – Abuse of care-dependent person
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 62 P.S. § 1407 – Medicaid services fraud
- 18 U.S.C.A. § 1347 – Health care fraud
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 63 P.S. § 1312(a) – Unlicensed practice and other criminal offenses under the Physical Therapy Practice Act
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.444(e). Reasons for removal include that they are repetitive of the violent, sexual, and drug-related offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of physical therapy:

- 18 Pa.C.S. § 2705 – Recklessly endangering another person
- 18 Pa.C.S. § 3011(a)(3) and (4) – Trafficking in individuals
- 18 Pa.C.S. § 3012(a) – Labor servitude
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3133 – Sexual extortion
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4304 – Endangering the welfare of children
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims

## **State Board of Podiatry**

### ***License Types***

- Podiatrist

### ***Necessary Duties and Responsibilities***

The practice of podiatric medicine includes “the diagnosis and treatment including mechanical and surgical treatment of ailments of the foot, and those anatomical structures of the leg governing the functions of the foot and the administration and prescription of drugs incidental thereto.” 63 P.S. § 42.2.

Specific job functions include:

- Treat chronic diseases or disorders.
- Analyze test data or images to inform diagnosis or treatment.
- Diagnose medical conditions.
- Advise patients on preventive care techniques.
- Prescribe assistive medical devices or related treatments.
- Prescribe medications.
- Prescribe treatments or therapies.
- Operate on patients to treat conditions.
- Refer patients to other healthcare practitioners or health resources.

- Adjust prostheses or other assistive devices.
- Fabricate medical devices.
- Maintain medical facility records.
- Manage healthcare operations.
- Order medical supplies or equipment.
- Communicate health and wellness information to the public.
- Treat patients using alternative medical procedures.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.445(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of podiatry.

- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 35 P.S. § 780-113(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36), (37) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act
- 63 P.S. § 42.13 – relating to criminal offenses under the Podiatry Practice Act
- 63 P.S. § 390-8 – relating to criminal offenses under the Pharmacy Act
- 62 P.S. § 1407 – Medicaid services fraud
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.445(e). Reasons for removal include that they are duplicative of the violent, sexual, and drug trafficking offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of the practice of podiatry.

- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4304 – Endangering welfare of children
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party

## **State Board of Psychology**

### ***License Types***

- Psychologist

### ***Necessary Duties and Responsibilities***

The practice of psychology means applying “established principles of learning, motivation, perception, thinking, and emotional relationships to problems of personality evaluation, group relations, and behavior adjustment,” “counseling and [using] psychological methods with persons or groups with adjustment problems in the areas of work, family, school, and personal relationships; measuring and testing of personality, intelligence, aptitudes, and emotions, and offering services as a psychological consultant,” and in certain circumstances diagnos[ing] and us[ing] psychological methods in the treatment of a mental, emotional or nervous illness or disability; alcoholism and other substance abuse; disorders of habit or conduct; psychological aspects of physical illness, accident, injury or disability; and psychoeducational evaluation, therapy, remediation and consultation.” 63 P.S. § 1202.

Specific job functions include:

- Conduct scientific studies of behavior and brain function.
- Observe, interview, and survey individuals.
- Identify psychological, emotional, behavioral, or organizational issues and diagnose disorders.
- Research and identify behavioral or emotional patterns.
- Test for patterns that will help them better understand and predict behavior.
- Discuss the treatment of problems with clients.
- Write articles, research papers, and reports to share findings and educate others.
- Supervise interns, clinicians, and counseling professionals.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.446(e), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of psychology:

- 18 Pa.C.S. § 2505 – Causing or aiding suicide
- 18 Pa.C.S. § 4906.1 – False reports of child abuse
- 18 Pa.C.S. § 4958 – Intimidation, retaliation or obstruction in child abuse cases
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 62 P.S. § 1407 –Medicaid services fraud
- 18 U.S.C.A. § 1035 – False statements relating to health care matters
- 18 U.S.C.A. § 1347 – Health care fraud
- 63 P.S. § 1211 – Unlicensed practice and other unlawful acts under the Professional Psychologists Practice Act
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.446(e). Reasons for removal include that they are repetitive of the violent, sexual, and drug-related offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of psychology:

- 18 Pa.C.S. § 911(b) – Corrupt organizations
- 18 Pa.C.S. § 2709 – Harassment
- 18 Pa.C.S. § 2709.1 – Stalking
- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 2904 – Interference with custody of children
- 18 Pa.C.S. § 2905 – Interference with custody of committed persons
- 18 Pa.C.S. § 2906 – Criminal coercion
- 18 Pa.C.S. § 2909 – Concealment of whereabouts of a child
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 6319 – Solicitation of minors to traffic drugs
- 18 Pa.C.S. § 7509 – Furnishing drug free urine
- 35 P.S. § 780-133(a)(12), (14), (16), (19), (30), (32) and (33) – relating to controlled substances

## **State Board of Social Workers, Marriage and Family Therapists and Professional Counselors**

### ***License Types***

- Bachelor Social Worker
- Social Worker
- Professional Counselor
- Clinical Social Worker
- Marriage & Family Therapist

### ***Necessary Duties and Responsibilities***

A social worker has “special knowledge of social resources, human personality and capabilities and therapeutic techniques and how to use them to help people to achieve adequate and productive personal, interpersonal and social adjustments in their individual lives, in their families and in their community.” 63 P.S. § 1903.

Marriage and Family Therapists “diagnose and treat mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. They apply psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such diagnosed nervous and mental disorders.” 63 P.S. § 1903.

Professional Counselors “specialize in the application of principles and practices of counseling, mental health and human development to evaluate and facilitate human growth and adjustment throughout the lifespan and to prevent and treat mental, emotional or behavioral disorders and associated stresses which interfere with mental health and normal human growth and development.” 63 P.S. § 1903.

Specific job functions include:

#### Social Worker

- Identify people and communities in need of help.
- Assess clients’ needs, situations, strengths, and support networks to determine their goals.
- Help clients adjust to changes and challenges in their lives, such as illness, divorce, or unemployment.
- Research, refer, and advocate for community resources, such as food stamps, childcare, and healthcare, to assist and improve a client’s well-being.
- Respond to crisis situations such as child abuse and mental health emergencies.
- Monitor clients’ situations, and follow up to ensure that they have improved.
- Maintain case files and records.
- Provide psychotherapy services.

#### Marriage and Family Therapist

- Counsel clients or patients regarding personal issues.
- Teach life skills or strategies to clients or their families.
- Develop treatment plans for patients or clients.
- Maintain client records.
- Collect information about clients.
- Counsel clients regarding interpersonal issues.
- Interview clients to gather information about their backgrounds, needs, or progress.
- Confer with clients to discuss treatment plans or progress.
- Collaborate with other professionals to assess client needs or plan treatments.
- Evaluate characteristics of individuals to determine needs or eligibility.
- Refer clients to community or social service programs.
- Evaluate the effectiveness of counseling or educational programs.
- Monitor clients to evaluate treatment progress.
- Supervise workers providing client or patient services.
- Advise others on social or educational issues.

- Help clients get needed services or resources.
- Lead classes or community events.
- Present social services program information to the public.
- Write reports or evaluations.
- Counsel clients or patients with substance abuse issues.

### Professional Counselors

- Evaluate clients' mental and physical health, addiction, or problematic behavior and assess their readiness for treatment.
- Develop, recommend, and review treatment goals and plans with clients and their families.
- Assist clients in developing skills and behaviors necessary to recover from their addiction or modify their behavior.
- Work with clients to identify behaviors or situations that interfere with their recovery.
- Document and maintain records of clients' progress.
- Teach clients' family members about addiction or behavior disorders and help them develop strategies to support clients in recovery.
- Refer clients to other resources and services, such as job placement services and support groups.
- Prepare clients for transition out of counseling through discharge planning.
- Conduct outreach programs to help people identify the signs of addiction and other destructive behavior, as well as steps to take to avoid such behavior.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.448(d), OP has identified the following as directly relating to a necessary duty or responsibility of the occupations of social work, marriage and family therapy, and professional counseling:

- 18 Pa.C.S. § 2505 – Causing or aiding suicide
- 18 Pa.C.S. § 2713 – Neglect of care-dependent person
- 18 Pa.C.S. § 2713.1 – Abuse of care-dependent person
- 18 Pa.C.S. § 4303 – Concealing death of a child
- 18 Pa.C.S. § 4958 – Intimidation, retaliation or obstruction in child abuse cases
- 23 Pa.C.S. § 6319 – Failure to report suspected child abuse
- 23 Pa.C.S. § 6346 – Willful failure to cooperate in investigation of child abuse
- 62 P.S. § 1407 – Medicaid services fraud
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.448(d). Reasons for removal include that they are repetitive of the violent, sexual, and drug-related offenses already listed in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of social work, marriage and family therapy, and professional counseling:

- 18 Pa.C.S. § 2710 – Ethnic intimidation
- 18 Pa.C.S. § 2905 – Interference with custody of committed person
- 18 Pa.C.S. § 3011 – Human trafficking
- 18 Pa.C.S. § 3012 – Involuntary servitude
- 18 Pa.C.S. § 3013 – Patronizing a victim of sexual servitude
- 18 Pa.C.S. § 3014 – Unlawful conduct regarding documents
- 18 Pa.C.S. § 3015 – Nonpayment of wages
- 18 Pa.C.S. § 3022 – Employing victim of human trafficking
- Any of the offenses enumerated in 18 Pa.C.S. Ch. 31 relating to sexual offenses
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4302 – Incest
- 18 Pa.C.S. § 4304 – Endangering welfare of a child
- 18 Pa.C.S. § 4305 – Dealing in infant children
- 18 Pa.C.S. § 4911 – Tampering with public records
- 18 Pa.C.S. § 5901 – Open lewdness
- 18 Pa.C.S. § 5902(b) and (b.1) – Promoting prostitution
- 18 Pa.C.S. § 5903 – Obscene and other sexual materials and performances
- 18 Pa.C.S. § 6301(a)(1)(i) and (ii) – Corruption of minors
- 18 Pa.C.S. § 6312 – Sexual abuse of children
- 18 Pa.C.S. § 6318 – Unlawful contact with minor
- 18 Pa.C.S. § 6320 – Sexual exploitation of minors
- 18 Pa.C.S. § 7507.1 – Invasion of privacy
- 35 P.S. § 780-113(a) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act

## **State Board of Vehicle Manufacturers, Dealers and Salespersons**

### ***License Types***

- Vehicle Salesperson
- Vehicle Representative

### ***Necessary Duties and Responsibilities***

A “[d]ealer” is a “person required to be licensed under [63 P.S. § 1801.101, *et seq.*] who is engaged in the business of buying, selling or exchanging new or used vehicles or an interest in new or used vehicles, regardless of whether the vehicles are owned by that person. The term includes persons engaged in consignment sales for a seller, but does not include a person issued an identification

number by the Department of Transportation, unless the board has also issued a dealer license to the person.” 63 P.S. § 818.102.

A “[s]alesperson” is “[a]ny person who, for a commission, compensation or other consideration, is employed by a dealer to buy, sell or exchange one or more new or used vehicles.” *Id.*

Specific job functions include:

- Greet customers and ascertain what each customer wants or needs.
- Recommend, select, and help locate or obtain merchandise based on customer needs and desires.
- Compute sales prices, total purchases, and receive and process cash or credit payment.
- Prepare merchandise for purchase or rental.
- Answer questions regarding the store and its merchandise.
- Maintain knowledge of current sales and promotions, policies regarding payment and exchanges, and security practices.
- Demonstrate use or operation of merchandise.
- Describe merchandise and explain use, operation, and care of merchandise to customers.
- Ticket, arrange, and display merchandise to promote sales.
- Inventory stock and requisition new stock.
- Exchange merchandise for customers and accept returns.
- Prepare and submit sales contracts for orders.
- Visit establishments to evaluate needs or to promote product or service sales.
- Maintain customer records, using automated systems.
- Answer customers’ questions about products, prices, availability, or credit terms.
- Quote prices, credit terms, or other bid specifications.
- Contact new or existing customers to discuss how specific products or services can meet their needs.
- Emphasize product features, based on analyses of customers’ needs and on technical knowledge of product capabilities and limitations.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.450(c), OP has identified the following as directly relating to a necessary functions of vehicle dealers and salespeople.

- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104(a) – Tampering with records or identification, when graded as a misdemeanor
- 18 Pa.C.S. § 4107 – Committing deceptive or fraudulent business practices
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4118 – Washing vehicle titles
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license

- 75 Pa.C.S. § 7122 – Altered, forged or counterfeit documents and plates
- 75 Pa.C.S. § 7132 – Prohibited activity related to odometers
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.450(c). Reasons for removal include that they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of vehicle dealers and salespeople.

- 18 Pa.C.S. § 3921 – Theft by unlawful taking
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receipt of stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 3934 – Theft from a motor vehicle
- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4104 – Tampering with records or identification, when graded as a summary offense
- 18 Pa.C.S. § 4105 – Passing or issuing bad checks (felony only)
- 18 Pa.C.S. § 4108 – Commercial bribery and criminal breach of duty to act disinterestedly
- 18 Pa.C.S. § 4110 – Defrauding secured creditors
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4121 – Possession and use of unlawful devices
- 18 Pa.C.S. § 4701 – Bribery in official and political matters
- 18 Pa.C.S. § 4902 – Perjury
- 18 Pa.C.S. § 4911 – Tampering with public records or information
- 18 Pa.C.S. § 5111 – Dealing in proceeds of unlawful activities

## **State Board of Veterinary Medicine**

### *License Types*

- Veterinarian
- Veterinary Technician

### ***Necessary Duties and Responsibilities***

A person practices veterinarian medicine who “diagnoses, treats, corrects, changes, relieves or prevents animal disease, deformity, injury or other physical, mental or dental conditions by any method or mode, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic or other therapeutic or diagnostic substance or technique, . . . performs a surgical operation, including cosmetic surgery, upon any animal, . . . performs any manual procedure upon an animal for the diagnosis or treatment of sterility or infertility of animals, . . . performs diagnostic veterinary pathology, . . . implants electronic identification, as determined by the board, upon any animal, or . . . removes any embryo from an animal for the purpose of transferring such embryo into another animal or cryopreserving such embryo.” 63 P.S. § 485.3(10).

Specific job functions include:

- Operate on patients to treat conditions.
- Prescribe medications.
- Treat acute illnesses, infections, or injuries.
- Immunize patients.
- Examine patients to assess general physical condition.
- Collect biological specimens from patients.
- Analyze test data or images to inform diagnosis or treatment.
- Operate diagnostic imaging equipment.
- Communicate health and wellness information to the public.
- Counsel clients and family members of clients.
- Manage healthcare operations.
- Provide health and wellness advice to clients, program participants, or caregivers.
- Treat animal injuries or illnesses.
- Maintain veterinary medical or professional knowledge.
- Supervise veterinary medical support personnel.
- Train veterinary medical providers.
- Determine protocols for veterinary medical procedures.
- Conduct research to increase knowledge about veterinary medical issues.
- Provide care for animals.
- Maintain veterinary facility records.
- Perform clerical work in veterinary settings.
- Schedule patient procedures or appointments.
- Inspect facilities for cleanliness.
- Inspect facilities or sites to determine if they meet specifications or standards.
- Develop veterinary medical treatment plans.
- Drive vehicles to transport individuals or equipment.
- Analyze veterinary medical data to determine cause of death.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.451(d), OP has identified the following as directly relating to a necessary duty or responsibility of the occupation of veterinary medicine.

- 18 Pa.C.S. § 3129 – Sexual intercourse with animal
- 18 Pa.C.S. § 5532 – Neglect of animal<sup>18</sup>
- 18 Pa.C.S. § 5533 – Cruelty to animal
- 18 Pa.C.S. § 5534 – Aggravated cruelty to animal
- 18 Pa.C.S. § 5535 – Attack of service, guide or support dog
- 18 Pa.C.S. § 5536 – Tethering of unattended dog
- 18 Pa.C.S. § 5537 – Selling or using disabled horse
- 18 Pa.C.S. § 5538 – Transporting animals in cruel manner
- 18 Pa.C.S. § 5539 – Transporting equine animals in cruel manner
- 18 Pa.C.S. § 5540 – Hours of labor of animals
- 18 Pa.C.S. § 5541 – Cruelty to cow to enhance appearance of udder
- 18 Pa.C.S. § 5542 – Animal mutilation and related offenses
- 18 Pa.C.S. § 5543 – Animal fighting
- 18 Pa.C.S. § 5544 – Possession of animal fighting paraphernalia
- 18 Pa.C.S. § 5545 – Killing homing pigeons
- 18 Pa.C.S. § 5546 – Skinning of and selling or buying pelts of dogs and cats
- 18 Pa.C.S. § 5547 – Live animals as prizes prohibited
- 18 Pa.C.S. § 5548 – Police animals
- 18 Pa.C.S. § 5549 – Assault with a biological agent on animal, fowl or honey bees
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.451(d). Reasons for removal include that they are duplicative of the violent, sexual, and drug trafficking offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of the practice of veterinary medicine.

- 18 Pa.C.S. § 2705 – Recklessly endangering another person
- 18 Pa.C.S. § 2713 – Neglect of care-dependent person
- 18 Pa.C.S. § 2713.1 – Abuse of care-dependent person
- 18 Pa.C.S. § 3011 – Human trafficking
- 18 Pa.C.S. § 3012 – Involuntary servitude
- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking
- 18 Pa.C.S. § 3133 – Sexual extortion
- 18 Pa.C.S. § 3921 – Theft by unlawful taking or disposition
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received

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<sup>18</sup> The proposed schedule of offenses lists “any of the offenses enumerated in 18 Pa.C.S. Ch. 55, Subchapter B relating to cruelty to animals.” That is overbroad; OP recommends parsing the offenses as listed here.

- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4104 – Tampering with records or identification
- 18 Pa.C.S. § 4106 – Access device fraud
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4117 – Fraud
- 18 Pa.C.S. § 4304 – Endangering the welfare of children
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or victims
- 35 P.S. § 780-113(a) – relating to certain violations of the Controlled Substance, Drug, Device and Cosmetic Act

## **State Real Estate Commission**

### *License Types*

- Broker (Standard)
- Cemetery Broker
- Real Estate Salesperson
- Cemetery Salesperson
- Builder-Owner Salesperson
- Rental Listing Referral Agent
- Campground Membership Salesperson
- Time-Share Salesperson

### *Necessary Duties and Responsibilities*

A “[b]roker” is anyone who “for another and for a fee, commission or other valuable consideration:

“(1) negotiates with or aids any person in locating or obtaining for purchase, lease or an acquisition of interest in any real estate;

(2) negotiates the listing, sale, purchase, exchange, lease, time share and similarly designated interests, financing or option for any real estate;

(3) manages any real estate;

(4) represents himself to be a real estate consultant, counsellor, agent or finder;

(5) undertakes to promote the sale, exchange, purchase or rental of real estate: Provided, however, That this provision shall not include any person whose main business is that of advertising, promotion or public relations;

(5.1) undertakes to perform a comparative market analysis; or

(6) attempts to perform any of the above acts.”

63 P.S. § 455.201.

A “[s]alesperson” is “Any person employed by a licensed real estate broker to perform comparative market analyses or to list for sale, sell or offer for sale, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate or to negotiate a loan on real estate or to lease or rent or offer to lease, rent or place for rent any real estate or collect or offer or attempt to collect rent for the use of real estate for or in behalf of such real estate broker.” *Id.*

Specific job functions include:

Broker (with respect to real estate)

- Obtain agreements from property owners to place properties for sale with real estate firms.
- Act as an intermediary in negotiations between buyers and sellers over property prices and settlement details and during the closing of sales.
- Generate lists of properties for sale, their locations, descriptions, and available financing options, using computers.
- Manage or operate real estate offices, handling associated business details.
- Compare a property with similar properties that have recently sold to determine its competitive market price.
- Monitor fulfillment of purchase contract terms to ensure that they are handled in a timely manner.
- Check work completed by loan officers, attorneys, or other professionals to ensure that it is performed properly.
- Rent properties or manage rental properties.
- Arrange for title searches of properties being sold.
- Arrange for financing of property purchases.
- Develop, sell, or lease property used for industry or manufacturing.
- Give buyers virtual tours of properties in which they are interested, using computers.
- Review property details to ensure that environmental regulations are met.

Salesperson (with respect to real estate)

- Prepare documents such as representation contracts, purchase agreements, closing statements, deeds, and leases.
- Present purchase offers to sellers for consideration.
- Act as an intermediary in negotiations between buyers and sellers, generally representing one or the other.
- Confer with escrow companies, lenders, home inspectors, and pest control operators to ensure that terms and conditions of purchase agreements are met before closing dates.
- Promote sales of properties through advertisements, open houses, and participation in multiple listing services.

- Compare a property with similar properties that have recently sold to determine its competitive market price.
- Coordinate property closings, overseeing signing of documents and disbursement of funds.
- Interview clients to determine what kinds of properties they are seeking.
- Contact previous clients for prospecting of referral business.
- Answer clients' questions regarding construction work, financing, maintenance, repairs, and appraisals.
- Display commercial, industrial, agricultural, and residential properties to clients and explain their features.
- Develop networks of attorneys, mortgage lenders, and contractors to whom clients may be referred.
- Review plans for new construction with clients, enumerating and recommending available options and features.
- Inspect condition of premises, and arrange for necessary maintenance or notify owners of maintenance needs.
- Solicit and compile listings of available rental properties.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.447(c), OP has identified the following as directly relating to a necessary duty or responsibility of the occupations of real estate brokering and selling.

- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 3932 – Theft of leased property
- 18 Pa.C.S. § 4101 – Criminal forgery
- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4104(a) – Tampering with records or identification (misdemeanor only)
- 18 Pa.C.S. § 4107 – Deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery and criminal breach of duty to act disinterestedly
- 18 Pa.C.S. § 4110 – Defrauding secured creditors
- 18 Pa.C.S. § 4111 – Fraud in insolvency
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4911 – Tampering with public records or information
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 18 Pa.C.S. § 7310 – Furnishing free insurance as inducement for purchase of real or personal property
- 18 Pa.C.S. § 7331 – Unlicensed mortgage loan business
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.447(c). Reasons for removal include that they are duplicative of the violent offenses already listed in the statute and restated in the proposed regulation; and they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of real estate brokering.

- 18 Pa.C.S. § 3022 – Employing a victim of human trafficking while holding a state professional license
- 18 Pa.C.S. § 3121 – Rape
- 18 Pa.C.S. § 3122.1 – Statutory sexual assault
- 18 Pa.C.S. § 3123 – Involuntary deviate sexual intercourse
- 18 Pa.C.S. § 3124.1 – Sexual assault
- 18 Pa.C.S. § 3124.2 – Institutional sexual assault
- 18 Pa.C.S. § 3124.3 – Sexual assault by sports official, volunteer or employee of nonprofit association
- 18 Pa.C.S. § 3125 – Aggravated indecent assault
- 18 Pa.C.S. § 3126 – Indecent assault
- 18 Pa.C.S. § 3127 – Indecent exposure
- 18 Pa.C.S. § 3130 – Assistance of sex offender’s non-compliance
- 18 Pa.C.S. § 3502 – Burglary
- 18 Pa.C.S. § 3503 – Criminal trespass (felony only)
- 18 Pa.C.S. § 3701 – Robbery
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receiving stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3929 – Retail theft (misdemeanor or higher)
- 18 Pa.C.S. § 3929.3 – Organized retail theft (misdemeanor or higher)
- 18 Pa.C.S. § 3934 – Theft of motor vehicles
- 18 Pa.C.S. § 4104 – Tampering with records or identification (summary offense)
- 18 Pa.C.S. § 4105 – Passing or issuing bad checks (felony only)
- 18 Pa.C.S. § 4106 – Access device fraud (felony only)
- 18 Pa.C.S. § 4107.2 – Deception relating to certification of minority business enterprise or women’s business enterprise
- 18 Pa.C.S. § 4113 – Misapplication of entrusted property and property of government or financial institutions
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4701 – Bribery in official and political matters
- 18 Pa.C.S. § 4702 – Threats or other improper influence in political matters
- 18 Pa.C.S. § 4703 – Retaliation for past official action
- 18 Pa.C.S. § 4902 – Perjury

- 18 Pa.C.S. § 4903 – False swearing
- 18 Pa.C.S. § 4904 – Unsworn falsification to authorities
- 18 Pa.C.S. § 4909 – Witness or informant taking bribe
- 18 Pa.C.S. § 4910 – Tampering with or fabricating physical evidence
- 18 Pa.C.S. § 4912 – Impersonating a public servant
- 18 Pa.C.S. § 4915.1 – Failure to comply with certain registration requirements
- 18 Pa.C.S. § 4915.2 – Failure to comply with certain registration requirements
- 18 Pa.C.S. § 4952 – Intimidation of witnesses or parties (felony only)
- 18 Pa.C.S. § 4953 – Retaliation against witness, victim or party
- 18 Pa.C.S. § 4958 – Intimidation, retaliation or obstruction in child abuse cases
- 18 Pa.C.S. § 7611 – Unlawful use of computer and other computer crimes
- 18 Pa.C.S. § 7613 – Computer theft
- 18 Pa.C.S. § 7615 – Computer trespass

## **State Registration Board for Professional Engineers, Land Surveyors, and Geologists**

### *License Types*

- Professional Engineer
- Professional Geologist
- Professional Land Surveyor
- Engineer in Training
- Geologist in Training
- Surveyor in Training

### *Necessary Duties and Responsibilities*

The “Practice of Engineering” means “the application of the mathematical and physical sciences for the design of public or private buildings, structures, machines, equipment, processes, works or engineering systems, and the consultation, investigation, evaluation, engineering surveys, construction management, planning and inspection in connection therewith, the performance of the foregoing acts and services being prohibited to persons who are not licensed . . . as professional engineers . . .” 63 P.S. § 149(a)(1). It does not include the practice of architecture, “excepting only architectural work incidental to the ‘practice of engineering.’” 63 P.S. § 149(a)(3). It *may* include some geological sciences, 63 P.S. § 149(a)(4), despite that the practice of geology is separately defined. *See* 63 P.S. § 149(n).

The “Practice of Land Surveying” is considered a “branch of the profession of engineering,” one “which involves the location, relocation, establishment, reestablishment or retracement of any property line or boundary of any parcel of land or any road right-of-way, easement or alignment; the use of principles of land surveying, determination of the position of any monument or reference point which marks a property line boundary, or corner setting, resetting or replacing any such monument or

individual point including the writing of deed descriptions; procuring or offering to procure land surveying work for himself or others; managing or conducting as managers, proprietors or agent any place of business from which land surveying work is solicited, performed, or practiced.” 63 P.S. § 149(d).

The practice of engineering is defined to include “acts and services” related to the practice of engineering as defined above. 63 P.S. § 149(a)(2). However, the relevant practice act acknowledges that some of these related acts and services, specifically “municipal planning, incidental landscape architecture, teaching, construction, maintenance and research,” are acts and services which “may be performed by other qualified persons” and for which “licensure under this act... shall not be required.” *Id.* Thus, for these related acts and services, although they “relate” to the practice of engineering, they are not essential and exclusive to engineering licensees. Crimes and offenses directly relating *only* to these tasks, therefore, would not be within the scope of Act 53’s requirement for a schedule of enumerated offenses.

The practice of geology is separately defined, and not as a branch of engineering. 63 P.S. § 149(n). It means “the practice or the offer to practice geology for others for a fee, including, but not limited to, describing the natural processes acting on earth materials, gases or fluids, predicting the probable occurrence of natural resources, predicting and locating natural or man-induced phenomena which may be useful or hazardous to mankind and recognizing, determining and evaluating geologic factors.” *Id.* “The term shall also include the performance of geological service or work, consultation, investigation, evaluation, planning, mapping and inspection of geological work required in implementing the provisions of any Federal or State law or regulation or the provisions of any ordinance, code, rule or permit required by any local political subdivision.” *Id.* The relevant practice act excludes “the practice of engineering, land surveying or landscape architecture for which separate licensure is required.” *Id.*

Specific job functions include:

### Engineering

- Manage and direct the construction, operations, or maintenance activities at project site.
- Inspect project sites to monitor progress and ensure conformance to design specifications and safety or sanitation standards.
- Compute load and grade requirements, water flow rates, or material stress factors to determine design specifications.
- Plan and design transportation or hydraulic systems or structures, using computer-assisted design or drawing tools.
- Provide technical advice to industrial or managerial personnel regarding design, construction, program modifications, or structural repairs.
- Estimate quantities and cost of materials, equipment, or labor to determine project feasibility.
- Prepare or present public reports on topics such as bid proposals, deeds, environmental impact statements, or property and right-of-way descriptions.
- Design energy-efficient or environmentally sound civil structures.

- Test soils or materials to determine the adequacy and strength of foundations, concrete, asphalt, or steel.
- Identify environmental risks and develop risk management strategies for civil engineering projects.
- Analyze manufacturing processes or byproducts to identify engineering solutions to minimize the output of carbon or other pollutants.
- Develop or implement engineering solutions to clean up industrial accidents or other contaminated sites.
- Design or engineer systems to efficiently dispose of chemical, biological, or other toxic wastes

#### Additional Functions related to Land Surveying, but not general Engineering

- Verify the accuracy of survey data, including measurements and calculations conducted at survey sites.
- Direct or conduct surveys to establish legal boundaries for properties, based on legal deeds and titles.
- Prepare, or supervise preparation of, all data, charts, plots, maps, records, and documents related to surveys.
- Write descriptions of property boundary surveys for use in deeds, leases, or other legal documents.
- Coordinate findings with the work of engineering and architectural personnel, clients, and others concerned with projects.
- Establish fixed points for use in making maps, using geodetic and engineering instruments.
- Calculate heights, depths, relative positions, property lines, and other characteristics of terrain.
- Adjust surveying instruments to maintain their accuracy.
- Train assistants and helpers, and direct their work in such activities as performing surveys or drafting maps.
- Record the results of surveys, including the shape, contour, location, elevation, and dimensions of land or land features.
- Determine longitudes and latitudes of important features and boundaries in survey areas, using theodolites, transits, levels, and satellite-based global positioning systems (GPS).
- Compute geodetic measurements and interpret survey data to determine positions, shapes, and elevations of geomorphic and topographic features.
- Analyze survey objectives and specifications to prepare survey proposals or to direct others in survey proposal preparation.
- Develop criteria for survey methods and procedures.
- Direct aerial surveys of specified geographical areas.
- Determine specifications for equipment to be used for aerial photography, as well as altitudes from which to photograph terrain.
- Develop criteria for the design and modification of survey instruments.

#### Geology<sup>19</sup>

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<sup>19</sup> O\*NET did not have a general category for “geologist.” It did have a category for “Mining and Geological Engineers, Including Mining Safety Engineers,” but the relevant practice act does not consider the practice of geology to be branch of engineering, and in any event, the tasks described by O\*NET did not seem entirely compatible with the description in the practice act. See <https://www.onetonline.org/link/summary/17-2151.00>. Rather, Geoscientist seemed to describe the practice more accurately. See <https://www.onetonline.org/link/summary/19-2042.00>.

- Plan or conduct geological, geochemical, or geophysical field studies or surveys, sample collection, or drilling and testing programs used to collect data for research or application.
- Analyze and interpret geological data, using computer software.
- Investigate the composition, structure, or history of the Earth's crust through the collection, examination, measurement, or classification of soils, minerals, rocks, or fossil remains.
- Analyze and interpret geological, geochemical, or geophysical information from sources, such as survey data, well logs, bore holes, or aerial photos.
- Identify risks for natural disasters, such as mudslides, earthquakes, or volcanic eruptions.
- Prepare geological maps, cross-sectional diagrams, charts, or reports concerning mineral extraction, land use, or resource management, using results of fieldwork or laboratory research.
- Locate and estimate probable natural gas, oil, or mineral ore deposits or underground water resources, using aerial photographs, charts, or research or survey results.
- Advise construction firms or government agencies on dam or road construction, foundation design, land use, or resource management.
- Measure characteristics of the Earth, such as gravity or magnetic fields, using equipment such as seismographs, gravimeters, torsion balances, or magnetometers.
- Conduct geological or geophysical studies to provide information for use in regional development, site selection, or development of public works projects.
- Assess ground or surface water movement to provide advice on issues, such as waste management, route and site selection, or the restoration of contaminated sites.
- Design geological mine maps, monitor mine structural integrity, or advise and monitor mining crews.
- Review work plans to determine the effectiveness of activities for mitigating soil or groundwater contamination.
- Determine ways to mitigate the negative consequences of mineral dust dispersion.

### ***Proposed Schedule of Offenses***

From the proposed schedule of offenses in reg. no. 16A-66 § 43b.432(c), OP has identified the following as directly relating to a necessary functions of the occupations of engineering, land surveying, and geology:

- 18 Pa.C.S. § 4101 – Criminal forgery

- 18 Pa.C.S. § 4103 – Fraudulent destruction, removal or concealment of recordable instruments
- 18 Pa.C.S. § 4104(a) – Tampering with records or identification (misdemeanor only)
- 18 Pa.C.S. § 4913 – Impersonating a notary public or holder of a professional or occupational license
- 73 P.S. § 517.8 – Home improvement fraud
- Criminal attempt, criminal conspiracy, or criminal solicitation to commit any of the offenses listed above.
- Any offense equivalent to any of the offenses listed above under the laws of another jurisdiction.

For reference, these are the offenses OP recommends removing from the proposed list in § 43b.432(c). Reasons for removal include that they do not meet the statutory requirement of being directly related to a necessary duty or responsibility of engineering, land surveying, or geology practices.

- 18 Pa.C.S. § 3921 – Theft by unlawful taking
- 18 Pa.C.S. § 3922 – Theft by deception
- 18 Pa.C.S. § 3923 – Theft by extortion
- 18 Pa.C.S. § 3924 – Theft of property lost, mislaid, or delivered by mistake
- 18 Pa.C.S. § 3925 – Receipt of stolen property
- 18 Pa.C.S. § 3926 – Theft of services
- 18 Pa.C.S. § 3927 – Theft by failure to make required disposition of funds received
- 18 Pa.C.S. § 4105 – Passing or issuing bad checks (felony only)
- 18 Pa.C.S. § 4107 – Committing deceptive or fraudulent business practices
- 18 Pa.C.S. § 4108 – Commercial bribery and criminal breach of duty to act disinterestedly
- 18 Pa.C.S. § 4114 – Securing execution of documents by deception
- 18 Pa.C.S. § 4115 – Falsely impersonating persons privately employed
- 18 Pa.C.S. § 4117 – Insurance fraud
- 18 Pa.C.S. § 4120 – Identity theft
- 18 Pa.C.S. § 4121 – Possession and use of unlawful devices

# ATTACHMENT 2

**RAF ATTACHMENT 2 - PA DEPARTMENT OF STATE  
FEE REPORT FORM**

**AGENCY:** State - BPOA

**DATE:** 2/14/2022

**CONTACT:** Arion R Claggett, Acting Commissioner  
Bureau of Professional and Occupational Affairs

**PHONE:** 717.783.7194

**FEE TITLE, RATE, AND ESTIMATED COLLECTIONS:**

<b>TITLE:</b>	Preliminary Determination
<b>CURRENT FEE (if applicable):</b>	\$45.00 as set by Act 53
<b>NUMBER OF APPLICATIONS ANNUALLY:</b>	350

**FEE DESCRIPTION:**

The fee will be charged to every applicant who applies for a preliminary determination as to whether a particular criminal conviction or convictions are grounds to deny a license to practice a specific profession or occupation.

**FEE OBJECTIVE:**

The fee should offset the identifiable costs incurred by a BPOA board or commission in reviewing and processing an application for a preliminary determination under Act 53.

**FEE-RELATED ACTIVITIES AND COSTS:**

JOB TYPE	JOB CLASSIFICATION	TIME SPENT	TOTAL COST
LEGAL OFFICE REVIEW	Paralegal	.4hr	\$21.68
BOARD COUNSEL REVIEW	Attorney 3	.25hr	\$22.26

TOTAL ESTIMATED COST:	\$43.94
TRANSACTION FEE:	\$1.18
<b>PROPOSED FEE:</b>	<b>\$45.12</b>

**ANALYSIS, COMMENT, AND RECOMMENDATION:**

**RECOMMENDATION:** It is recommended that a fee of \$45.00 be established for processing an application for a preliminary determination.

**LEGAL OFFICE REVIEW:** Counsel Division paralegal receives all applications for preliminary determination, reviews the application, assigns it to the appropriate counsel attorney, selects the appropriate template and drafts the preliminary determination letter. Once approved by counsel, paralegal uploads the preliminary determination letter to PALS and processes the application.

**BOARD COUNSEL REVIEW:** Counsel for the impacted board reviews the application and the draft preliminary determination letter, makes any edits or corrections, and approves it to be issued.

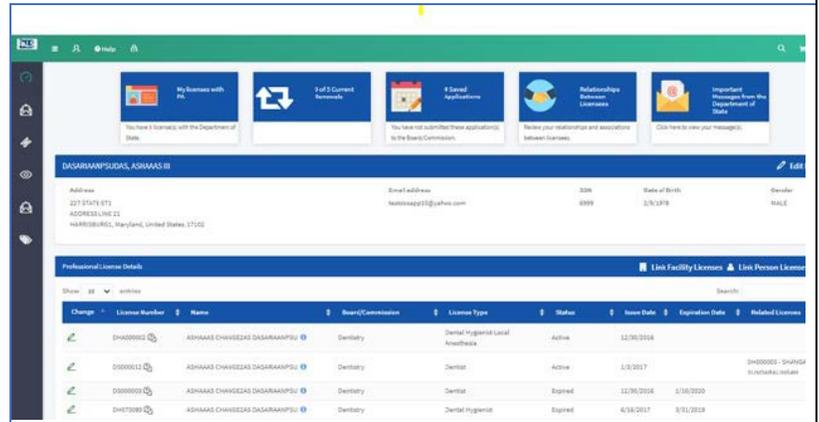
# ATTACHMENT 3

## PRELIMINARY DETERMINATION USER GUIDE

# SB 637: Preliminary – Determination application – External Flow User Guide

This user guide is for applying Preliminary-determination application as an external user.

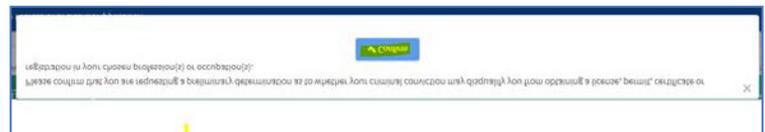
1. Go to the PALS website and login: <https://www.pals.pa.gov/#/page/login>
2. Once Logged In, user dashboard will be shown.



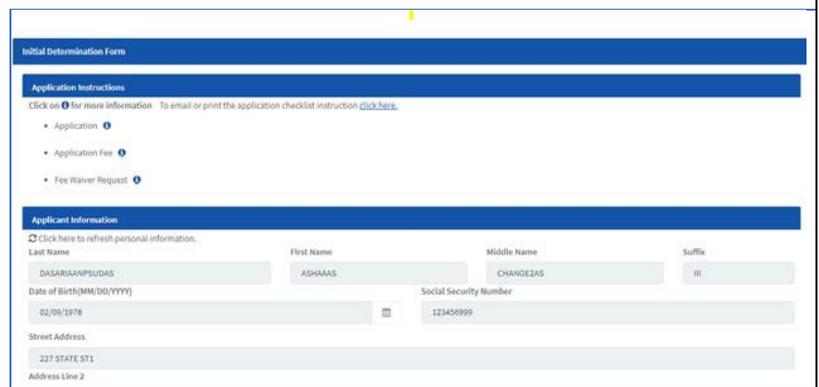
3. Click **Request Preliminary Determination** button under Preliminary Determination Regarding Effect of Criminal Conviction on Licensure Eligibility



4. Pop up will display with a confirmation message and click **Confirm** button to proceed.



5. Initial Determination Form will display with prepopulated applicant information.



6. Select Board/License Type information under Preliminary Determination Request section. Click “+” icon to add more than one Board/License Type.

Preliminary Determination Request

Board/Commission: Barber Examiners

License Type: Barber

Board/Commission: Cosmetology

License Type: Cosmetology Teacher

7. Answer Criminal background question and upload required supporting documents by clicking on Choose Files(to select the file) and Upload(to upload file) button.

Criminal Background Questions

You are seeking a review of your criminal conviction(s) to determine their effect on your eligibility for a professional or occupational license. What crime or crimes serve as the basis for your request for a preliminary determination? Be specific. Identify the crime, the jurisdiction (state or federal), the date of the conviction, and all circumstances related to the conviction.

Convicted for an accident

Upload all relevant court documents related to the conviction(s) that serve as the basis for your request, including the criminal complaint, information, affidavit of probable cause, sentencing information, docket sheets, etc.

Select files

Name	Size	Progress	Status	Actions
Legal Test Document.docx	0.02 MB	<div style="width: 100%;"></div>	✓	<a href="#">Upload</a> <a href="#">Cancel</a> <a href="#">Remove</a>

8. Answer Fee Waiver related question as “No” if you are not seeking for Fee Waiver.

Fee Waiver Questions

I have submitted a request for a preliminary determination seeking to determine whether my criminal conviction(s) may negatively impact my eligibility for a professional or occupational license. I understand that, unless approved for “in forma pauperis” status, a fee of \$45.00 is required for each board that governs my selected profession(s) or occupation(s).

Yes  No

I am seeking in forma pauperis status and a waiver of the \$45.00 fee(s) associated with my request for a preliminary determination.

9. Answer Fee Waiver related question as “Yes” if you are seeking for Fee Waiver and it will display fee waiver related questions which are required to answer. A waiver of the fee will be granted only to individuals who are indigent or otherwise unable to pay the \$45 fee.

Fee Waiver Questions

I have submitted a request for a preliminary determination seeking to determine whether my criminal conviction(s) may negatively impact my eligibility for a professional or occupational license. I understand that, unless approved for “in forma pauperis” status, a fee of \$45.00 is required for each board that governs my selected profession(s) or occupation(s).

Yes  No

I am seeking in forma pauperis status and a waiver of the \$45.00 fee(s) associated with my request for a preliminary determination.

Are you presently employed?

Yes  No

If yes, what is your monthly compensation?

1000

Are you working full or part time?

Full time

Are you receiving any other source of income?

Yes  No

Do you own any cash or have a bank account?

Yes  No

Do you own or rent your home?

Yes  No

10. Upload any supporting documents for fee waiver

Would you like to add any supporting documents?

Yes  No

Select files

[Choose Files](#) No file chosen

Name	Size	Progress	Status	Actions
Fee Waiver Doc.docx	0.01 MB	<div style="width: 100%;"></div>	✓	<a href="#">Upload</a> <a href="#">Cancel</a> <a href="#">Remove</a>

11. Provide the signature under Certification Statement and click Continue to proceed.

Certification Statement

I certify that the information provided in this application is true and correct to the best of my knowledge, information, and belief. I understand that submission of false information subjects me to penalties under 18 Pa.C.S. § 4904 (relating to unsworn fabrication to authorities).

Signature: Assant

Date: 11/2/2020

[Save](#) [Continue](#)

12. Review page will display and click on “Edit” on the section if you want to edit anything and click Continue once done with the changes. And click “Add to Cart” to proceed to the cart page.

13. Cart page will display with the \$0 fee for each board selected in the form if you select “Yes” to fee waiver question

14. Cart page will display with the \$45 fee for each board selected in the form if you select “No” to fee waiver question

- o Select the item in the cart and select “All fees are refundable. Please continue with your transaction.” Checkbox and click “Proceed to Payment”

15. Click “Ok, Proceed further” on the Payment Alert.

16. If the fee is required, payment screen will display – Enter the credit card information and click “Pay With Your Credit Card”

### Pay With Your Credit Card

Cardholder Name  Country

Credit Card Number

Expiry Date (MMYY)

Security Code

CVV2 is the Visa term for the 3 digit security code on the back of the credit card (Visa and MasterCard). For American Express, it is 4 digits and located on the front.

Address

City

State/Province

ZIP/Postal Code

Email

A confirmation email will be sent to this address.

**Pay With Your Credit Card**

17. System will process the payment and display the confirmation page with the Receipt number and the application number, Checklist and the option to download application PDF.

Thank you for your payment.

Your payment has been processed - please print this page for your records.  
 Your application is not complete until the Board sees the completed checklist items below. Click Download to print the receipt document for tracking. It is your responsibility to maintain a copy of the application and all documents submitted to the board - retained for the board.

Receipt Number	Application #	Application Fee	Application Fee	Status	Action
61262020	61262020	Application Fee	Application Fee	Pending Review	Download
		Application Fee	Application Fee	Completed	

To email or print the application checklist instruction: [Click Here](#)

18. If payment receipt needs to send to any other email address, then enter a valid email address and click SEND – System will send payment receipt provided.

**SEND** **Cancel**

19. Click “Go to Dashboard” to go back to the dashboard. Above submitted applications will be shown under Activities section.

Activities

Click to view application checklist and upload documents to the Board Commission.

Showing 00 of 0 entries

Reference Number	Board/Commission	License Type	License Number	Description	Status	Timeline	Action
61262020	Barber Examiners			Preliminary Determination Application	Pending		
61262020	Cosmetology			Preliminary Determination Application	Pending		

Showing 1 of 2 entries

Previous 1 Next

Commenters List 16A-66 Consideration of Criminal Convictions

General Assembly Joint Comment					
Representative Sheryl M. DeLozier	PA House of Representatives	88th Legislative District			
Representative Jordan A. Harris	PA House of Representatives	186th Legislative District			
Senator John DiSanto	PA Senate	15th Senate District			
Senator Judith L. Schwank	PA Senate	11th Senate District			
Public Commentors					
Last Name	First Name	Organization	E-mail	Mailing Address	City, St Zip
Alberici	Theresa		tmralberici4@gmail.com		
Alvarez	Alexis	American Civil Liberties Union	AlexisA@aclu.org		
Amann	Carrie	PA Workforce Development Association	camann@pawork.org	205 House Avenue, Suite 101	Camp Hill, PA 17011
Bottler	Jeanette	Justice Action Network	jenna@justiceactionnetwork.org	444 N. Capitol Street, NW, Suite 200	Washington, DC 20001
Calcara	Peter	Pennsylvania Institute of Certified Public Accountants	palcara@picpa.org	500 N. Third Street, Suite 600A	Harrisburg, PA 17101
Cardenas	Deborah	Pennsylvania State Nurses Association	tdougherty@psna.org		
Clark	Rebecca	PA American College of Nurse-Midwives'	rrsclark@nursing.upenn.edu	418 Curie Blvd.	Philadelphia, PA 19104
Elk	Sara	Eastern State Penitentiary Historic Site, Inc.	sje@easternstate.org	2027 Fairmount Avenue	Philadelphia, PA 19130
Gibson	Erica	City of Philadelphia	Erica.Gibson@Phila.gov	215 City Hall	Philadelphia, PA 19107
Halper	Alex	PA Chamber of Business and Industry	ahalper@pachamber.org	417 Walnut Street	Harrisburg, PA 17101
Jones	Larry	Pennsylvania Society of Health-System Pharmacists	PSHP.execdir@pshp.org		
Miller	Keith	Pennsylvania Chiropractic Association	enielsen@pennchiro.org	1335 North Front Street	Harrisburg, PA 17102
Oxholm III	Carl	The Pardon Project	Oxholm@plsephilly.org	230 South Broad Street, Suite 1102	Philadelphia, PA 19102
Pacheco	Taylor	Philadelphia Lawyers for Socai Equity	pacheco@plsephilly.org	230 S. Broad St., Suite 1102	Philadelphia, PA 19102
Pearl	Peggy	Pennsylvania Coalition of Nurse Practitioners	ppearl@pacnp.org	2400 Ardmore Blvd., Ste. 302	Pittsburgh, PA 15221
Schlamb	Cheryl	PA Coalition of Nurse Practitioners	president@pacnp.org	2400 Ardmore Blvd., Ste. 302	Pittsburgh, PA 15221
Shubik-Richards	Claire	Pennsylvania Prison Society	cshubik@prisonsociety.org	230 S. Broad Street, Suite 605	Philadelphia, PA 19102
Sims	Akeem	Pardon Project Steering Committee	PPSC@plsephilly.org	230 S. Broad Street, Suite 1102	Philadelphia, PA 19102
Stiefel	Frank	Last Prisoner Project	frank@lastprisonerproject.org	1312 17th St. #640	Denver, CO 80202
Svoboda-Kindle	Katie	Community Legal Service	kkindle@clsphila.org	1424 Chestnut St.	Philadelphia, PA 19102
Wiggins	Laura	Pennsylvania Association of Nurse Anesthetists	Shauna.Boscaccy@gslpublicaffairs.com		

Commenters List 16A-66 Consideration of Criminal Convictions

General Assembly Joint Comment					
Representative Sheryl M. DeLozier	PA House of Representatives	88th Legislative District			
Representative Jordan A. Harris	PA House of Representatives	186th Legislative District			
Senator John DiSanto	PA Senate	15th Senate District			
Senator Judith L. Schwank	PA Senate	11th Senate District			
Public Commentors					
Last Name	First Name	Organization	E-mail	Mailing Address	City, St Zip
Alberici	Theresa		tmralberici4@gmail.com		
Alvarez	Alexis	American Civil Liberties Union	AlexisA@aclu.org		
Amann	Carrie	PA Workforce Development Association	camann@pawork.org	205 House Avenue, Suite 101	Camp Hill, PA 17011
Bottler	Jeanette	Justice Action Network	jenna@justiceactionnetwork.org	444 N. Capitol Street, NW, Suite 200	Washington, DC 20001
Calcara	Peter	Pennsylvania Institute of Certified Public Accountants	palcara@picpa.org	500 N. Third Street, Suite 600A	Harrisburg, PA 17101
Cardenas	Deborah	Pennsylvania State Nurses Association	tdougherty@psna.org		
Clark	Rebecca	PA American College of Nurse-Midwives'	rrsclark@nursing.upenn.edu	418 Curie Blvd.	Philadelphia, PA 19104
Elk	Sara	Eastern State Penitentiary Historic Site, Inc.	sje@easternstate.org	2027 Fairmount Avenue	Philadelphia, PA 19130
Gibson	Erica	City of Philadelphia	Erica.Gibson@Phila.gov	215 City Hall	Philadelphia, PA 19107
Halper	Alex	PA Chamber of Business and Industry	ahalper@pachamber.org	417 Walnut Street	Harrisburg, PA 17101
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Miller	Keith	Pennsylvania Chiropractic Association	enielsen@pennchiro.org	1335 North Front Street	Harrisburg, PA 17102
Oxholm III	Carl	The Pardon Project	Oxholm@plsephilly.org	230 South Broad Street, Suite 1102	Philadelphia, PA 19102
Pacheco	Taylor	Philadelphia Lawyers for Socai Equity	pacheco@plsephilly.org	230 S. Broad St., Suite 1102	Philadelphia, PA 19102
Pearl	Peggy	Pennsylvania Coalition of Nurse Practitioners	ppearl@pacnp.org	2400 Ardmore Blvd., Ste. 302	Pittsburgh, PA 15221
Schlamb	Cheryl	PA Coalition of Nurse Practitioners	president@pacnp.org	2400 Ardmore Blvd., Ste. 302	Pittsburgh, PA 15221
Shubik-Richards	Claire	Pennsylvania Prison Society	cshubik@prisonsociety.org	230 S. Broad Street, Suite 605	Philadelphia, PA 19102
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Svoboda-Kindle	Katie	Community Legal Service	kkindle@clsphila.org	1424 Chestnut St.	Philadelphia, PA 19102
Wiggins	Laura	Pennsylvania Association of Nurse Anesthetists	Shauna.Boscaccy@gslpublicaffairs.com		

CDL-1

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

**(Pursuant to Commonwealth Documents Law)**

**RECEIVED**

Independent Regulatory  
Review Commission

June 3, 2024

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Bureau of Professional and Occupational Affairs</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>16A-66</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Arion R. Claggett</u> Arion R. Claggett</p> <p>TITLE <u>Acting Commissioner</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><u>adabelson</u> 2024.05.31 BY: <u>Adelle D. Adelson</u> 14:11:37-04'00</p> <p><u>5/31/2024</u> DATE OF APPROVAL</p> <p>(Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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FINAL RULEMAKING

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

TITLE 49 PA CODE CHAPTER 43b

§§ 43b.201, 43b.401—43b.405 and 43b.421—43b.452

CONSIDERATION OF CRIMINAL CONVICTIONS

The Acting Commissioner of Professional and Occupational Affairs (Acting Commissioner) hereby amends Chapter 43b, by amending § 43b.201 (relating to fees for services) and adding Subchapter E (relating to consideration of criminal convictions) to read as set forth in Annex A.

### *Effective Date*

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

### *Statutory Authority*

The Commissioner is required under 63 Pa.C.S. § 3117 (relating to list of criminal offenses) to promulgate regulations setting forth a schedule of criminal convictions that may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit for each occupation or profession regulated by a licensing board or commission under their respective practice acts. The general rulemaking authority of the Department of State (Department) and the various departmental administrative boards and commissions is set forth in section 506 of the Administrative Code of 1929 (71 P.S. § 186). The Commissioner’s authority to fix the fees to be charged by the several professional and occupational licensing boards within the Department and to coordinate the activities of the various boards and commissions is set forth in section 810(a)(7) and (8) of the Administrative Code of 1929 (71 P.S. § 279.1(a)(7) and (8)).

### *Background and Purpose*

The act of July 1, 2020 (P.L. 545, No. 53) (Act 53) set forth a new paradigm for the professional and occupational licensing boards and commissions within the Bureau of Professional and Occupational Affairs (Bureau) in considering the impact of prior criminal convictions on a board or commission’s decision whether to refuse to issue or renew, suspend, revoke or otherwise limit a license, certificate, registration, or permit. (For ease of reference, the various professional and occupational licensing boards and commissions will be referred to generically herein as “boards,” and the actions they take with respect to granting, renewing, suspending or revoking a license, certificate, registration or permit will be referred to as decisions relating to “licensure.”) The relevant provisions of Act 53 are codified at 63 Pa.C.S. §§ 3112—3118. The policy goals of Act 53 were to protect and promote public safety while reducing barriers to professional licensure for individuals with prior criminal convictions and increasing transparency of the boards’ decision-making process.

To these ends, Act 53 required the Acting Commissioner, after consulting with the licensing boards and other interested parties, to publish a schedule of criminal offenses that “may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit for each occupation or profession under the respective practice acts.” (63 Pa.C.S. § 3117(a)). The licensing boards must consult their respective schedules when assessing an individual’s fitness for licensure. If an individual had been convicted of a directly related offense, the board applies a rebuttable presumption that granting a license to that individual will “pose a substantial risk to the

health and safety of the individual’s patients or clients or the public or a substantial risk of further criminal convictions.” (63 Pa.C.S. § 3113(b)). Regardless of whether an individual has a prior conviction for a scheduled offense, however, the board must conduct a detailed individualized assessment of each application, considering certain factors enumerated in 63 Pa.C.S. §§ 3113(c) (relating to consideration of criminal convictions).

To warrant inclusion on the schedule, an offense must “directly relate” to a licensed profession or occupation. See 63 Pa.C.S. §§ 3113(b) and 3117(a)(1). Under Act 53, an offense “directly relates” to a profession or occupation only if it has “a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related” to the profession or occupation. See 63 Pa.C.S. § 3102 (relating to definitions). Consistent with the law’s underlying policy of reducing unnecessary barriers to licensure, this statutory definition is narrow in scope.

### *Summary of Comments and the Acting Commissioner’s Response*

After consulting each of the Bureau’s boards, the Acting Commissioner issued the proposed rulemaking, which was published at 52 Pa.B. 7108 (November 19, 2022) for 30 days of public comment. Twenty-one individuals and organizations submitted comments on the regulation, as follows:

- Justice Action Network – Jeanette Bottler (Submitted on December 12, 2022)
- Philadelphia Lawyers for Social Equity – Taylor E. Pacheco, Esq. (December 12, 2022)
- Pennsylvania Chiropractic Association – Keith M. Miller, DC (December 12, 2022)
- PLSE Pardon Project – Carl Oxholm, III (December 14, 2022)
- Last Prisoner Project – Frank Stiefel (December 14, 2022)
- Pennsylvania Prison Society – Clarie Shubik-Richards; Amachi Pittsburgh- Anna E. Hollis; Pennsylvania Institutional Law Project – Su Ming Yeh; Public Interest Law Center – Mimi McKenzie; Youth Sentencing and Reentry Project – Marto Isman; and Alliance for Safety and Justice – Shaena Fazal (December 15, 2022)
- Eastern State Penitentiary Historic Site – Sara Jane Elk (December 15, 2022)
- Community Legal Services, Inc. (December 16, 2022)
- PLSE Pardon Project Steering Committee – Akim Sims (December 16, 2022)
- Pennsylvania Coalition of Nurse Practitioners (PCNP) w/attachment – Cheryl Schlamb, DNP, CRNP (December 16, 2022)
- PA Affiliate of the American College of Nurse-Midwives (PA-ACNM)– Rebecca R.S. Clark, PhD, RN, CNM, WHNP-BC (December 16, 2022)
- Theresa Alberici (December 18, 2022)
- Pennsylvania Society of Health-System Pharmacists – Larry Jones (December 18, 2022)
- American Civil Liberties Union (ACLU) and the ACLU of Pennsylvania - Alexis Alvarez (December 19, 2022)
- City of Philadelphia – Erica Gibson and Assata M. Thomas (December 19, 2022)

- Pennsylvania Association of Nurse Anesthetists (PANA) – Laura Wiggins (December 19, 2022)
- PA Chamber of Business and Industry – Alex Halper (December 19, 2022)
- Pennsylvania Institute of Certified Public Accountants (PICPA) – Peter N. Calcara (December 19, 2022)
- Pennsylvania State Nurses Association (PSNA) – Deborah Cardenas, DNP, MSN, RN, Paralegal, CPHQ (December 19, 2022)
- PA Workforce Development Association – Carrie Amann (December 19, 2022)

In addition, the bipartisan Prime Sponsors of SB 637 and HB 1477 (the bills enacted as Act 53), Representatives Sheryl M. Delozier and Jordan A. Harris, and Senators John DiSanto and Judith L. Schwant, also submitted comments on December 19, 2022. The Independent Regulatory Review Commission (IRRC) submitted their comments on January 18, 2023. The following represents a summary of the comments and the Acting Commissioner’s response, and a description of the amendments made to this final-form rulemaking.

All but two of the public comments recommend rejecting the proposed rulemaking on the grounds that the schedules of offenses it prescribed are overbroad, undermining the policy animating Act 53. These commenters contend that the schedules, both generally and as to specific professions, included offenses that do not meet the narrow statutory definition of “directly related” and were inconsistent between professions with similar scopes of practice and job responsibilities.

Many commenters, for example, take issue with the inclusion of certain offenses that they argue do not have any direct bearing on the respective profession, like the offense of forgery for barbering (Philadelphia Lawyers for Social Equity), or driving under the influence (PANA) or minor theft-related crimes (PCNP) for nursing. The PA-ACNM criticizes that, under the proposed schedules, an applicant could qualify for a midwife license issued by the State Board of Medicine, but not the prerequisite nursing license from the State Board of Nursing because they were previously convicted of one of the numerous additional, unique offenses identified as directly related to the profession of nursing. The PSNA shares similar sentiments, while the Pennsylvania Chiropractic Association argues that the schedules should be consistent across all healthcare-related boards.

IRRC further asked whether the health care licensing boards consulted with each other in determining which offenses to include in their schedules and asked the Bureau to explain the reasonableness of the inconsistency of the schedules of offenses for health care professionals. In response, the Acting Commissioner notes that some of the health-related boards who license the same or very similar professions made efforts to have consistency among their schedules. For example, the State Board of Medicine and the State Board of Osteopathic Medicine regulate physicians, physician assistants, respiratory therapists, athletic trainers, acupuncturists, perfusionists and genetic counselors. Due to this overlap of the professions regulated by these boards, efforts were made to assure that the schedules of directly related crimes were consistent, if not identical. However, other health-related boards did not confer with each other as to the content of the initial lists. The Acting Commissioner believes that the final-form regulations meet the goal of consistency across the health-related boards to the degree necessary.

Some commenters particularly criticize the process employed by the Commissioner to develop the proposed schedules, and urge the Commissioner to engage in an “evidenced-based process” (ACLU of Pennsylvania) that takes into account specific job responsibilities and duties, case law and policy relating to constitutional limits on professional licensing regulation (The Pardon Project) and the legislative goals of the law, including: ameliorating workforce shortages (PA Chamber of Business and Industry, PA Workforce Development Association and Justice Action Network); reducing barriers to rewarding professional practice (Eastern State Penitentiary Historic Site and Last Prisoner Project); and lessening the stigmatization and collateral consequences of criminal conviction (City of Philadelphia and PA Prison Society and five others). Community Legal Services, Inc. submitted extensive comments that include, in addition to many of the above concerns, expert reports opining on the suitability of the proposed schedules and appropriate methodology for assessing when an offense directly relates to a profession.

The bipartisan legislative drafters of Act 53 align with the public commenters who oppose the proposed rulemaking. They state that the proposed schedules were “overly broad and are in direct contrast to the spirit of this legislation and the intention of its makers,” contained offenses that are unrelated to their respective professions and did not effectively provide guidance on when an applicant may pose a “substantial risk” to the public if licensed. The letter from the four prime sponsors made it clear that “Act 53 was drafted and amended with the objective of offering a pathway to licensure for those with criminal convictions who have paid their debt to society” and to eliminate barriers to licensure on the sole basis of old convictions that were not related or connected to the profession for which licensure was sought. The drafters opined that denying reformed convicted persons the prospect of meaningful employment does little to protect the safety and well-being of society and may actually contribute to these individuals choosing to offend. They further stated that “the primary objectives” of Act 53 “were to open the professions more widely to rehabilitated people with old and unrelated criminal records and to provide relief to businesses struggling to find qualified workers.” The drafters urged the Acting Commissioner to thoroughly review and revise the “directly related” lists before submission of the final-form rulemaking based on the intent of the law. IRRC suggested that the Bureau “consult with the legislature to clarify the legislative intent of Act 53” as it prepares the final-form regulation. Therefore, in addition to considering the letter from the prime sponsors, the Acting Commissioner met with staff members for the four prime sponsors as well as the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee to discuss the intent of Act 53 and how the final-form rulemaking could more closely advance that purpose. The comments in that meeting reflected those made in the prime sponsor’s letter and guided the Acting Commissioner’s review of the schedules of offenses.

In light of these and the numerous other comments objecting to the proposed rulemaking, IRRC encouraged the Acting Commissioner in its comments to undertake “a thorough reevaluation of all offenses and practices” included in the rule. IRRC also asked the Bureau to engage stakeholders to reach consensus where possible.

In consideration of these comments and upon further consideration and review of the statutory text and intent of Act 53, as clarified by the four prime sponsors and legislative staff, the Acting Commissioner is amending the proposed schedules of offenses. These amended schedules are set forth in §§ 43b.421—43b.451 of the final-form rulemaking. In making these amendments, the Acting Commissioner considered foremost whether a scheduled offense meets the strict statutory definition of “directly related,” that is, if the offense has “a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related” to the profession or occupation.

To test the statutory fit, the Acting Commissioner first identified key duties and responsibilities of each licensed occupation. The Acting Commissioner principally consulted the statutory scopes of practice in the respective practice acts as well as O\*NET Online, an occupational database sponsored by the U.S. Department of Labor, available at <https://www.onetonline.org>. Then, the Acting Commissioner determined whether an offense met two criteria:

1. The offense must relate to a necessary duty or responsibility of the profession that generally will be required of all licensees engaging in that occupation. In other words, the duty or responsibility must be essential to and inherent in the profession, and not a task that may arise only sometimes or incidentally, or that would be generic to a variety of professional settings.
2. The offense must bear a meaningful relationship to one of the occupation’s necessary duties or responsibilities. This means that conviction for committing the offense indicates an inability to perform specific and essential professional duties or responsibilities, or that such duties or responsibilities pose unique circumstances for a heightened risk of reoffending.

If these two criteria were not satisfied, the Acting Commissioner has removed the offense from the schedules in the final-form rulemaking. In addition, the Commissioner considered other factors:

- The severity of the offense, including whether the legislature has determined it to warrant severe or relatively lenient punishment.
- The vagueness of the offense, and whether a person could be convicted of it for unrelated or relatively minor conduct.
- Whether the offense was included within the statutory categories of violent offenses, sexual offenses, or drug offenses which the boards and commissions already must consider when assessing applicants.

Appendix 1 to the Regulatory Analysis Form sets forth the rationale for the amended schedules of offenses for each of the boards, along with each profession’s necessary duties and responsibilities as well as, for ease of reference, a list of the offenses removed from the schedules as they appeared in the proposed rulemaking.

The Acting Commissioner believes this process comports with the statutory text and intent, and it ensures that only a limited set of offenses—those that truly bear on an individual’s fitness to perform a particular licensed profession—result in a presumption of unfitness for license applicants. The resulting schedules will likely reduce unnecessary barriers to professional practice for individuals who have paid their debt to society for unrelated past misconduct while identifying those individuals whose fitness for licensure may warrant additional scrutiny by the relevant board. The Acting Commissioner undertook the changes to the final-form regulations in consideration of the stakeholder concerns as expressed in their comments and believes that the vast majority of stakeholders who commented will agree that the revised schedules are neither overly broad, nor underinclusive, as suggested by IRRC.

This process also resulted in schedules that are more consistent across professions with similar or overlapping scopes of practice, which the Acting Commissioner agrees with commenters is a sensible goal. Indeed, Act 53 itself provides a class-wide disqualification of “health care practitioner[s]” if convicted of a sexual offense at 63 Pa.C.S. § 3113(d), supporting congruent schedules for these professions. The schedules are not identical—the Acting Commissioner did not believe it was appropriate to jettison, in favor of entirely homogenous schedules, the considered judgments of the licensing boards who were tasked with initially identifying the universe of offenses they considered to be directly related to their respective professions. But by employing a process designed to better tailor the included offenses, the Acting Commissioner was able to compile schedules that were appropriately similar. Clients and patients of individuals working in similar professional settings will be assured that those individuals met similar standards when applying for licensure.

The Acting Commissioner is mindful that conviction of an offense appearing on the resulting schedule only gives rise to a presumption that an applicant is unfit for licensure and that, in all cases, the boards retain discretion to render licensing decisions they believe best serve the public interest. Regardless of whether an applicant has been convicted of a scheduled offense or a different offense, the law requires the board to conduct a comprehensive individualized assessment of the nature, severity and other circumstances of the applicant’s prior misconduct that bear on fitness for licensure. See 63 Pa.C.S. § 3113(c). Public safety remains paramount.

Those opposed to the proposed rulemaking make two additional recommendations. First, contrary to the Acting Commissioner’s position in the proposed rulemaking, over half of the commenters urge the Acting Commissioner to include time limits in the rule beyond which prior conviction for a scheduled offense will no longer trigger a presumption that the applicant is unfit for licensure. These commenters argue that the statutory definition for “directly related” encompasses considering a prior conviction’s temporal proximity to the application for licensure, and that omitting time limits effectively creates lifetime bans for certain ex-offenders, undermining the statute’s intent. The principal legislative drafters share these views, which IRRC in part tasked the Acting Commissioner with consulting to “clarify the legislative intent of Act 53.”

Research on recidivism is voluminous; studies generally show that the risk of reoffending among those with a prior criminal record falls below the risk of arrest for the general population approximately:

- 4–7 years after a violent offense;
- 4 years after a drug offense; and
- 3–4 years after a property offense.

*See, e.g.,* Alfred Blumstein & Kiminori Nakamura, *Redemption in the Presence of Widespread Criminal Background Checks*, *Criminology* 47:2 327–59 (2009); Samuel E. DeWitt et al., *Redeemed compared to whom? Comparing the distributional properties of arrest risk across populations and provisional employees with and without a criminal record*, *Criminology & Public Policy* 16:963–97 (2017). *See also, e.g.,* United States Sentencing Commission, *Recidivism Among Federal Offenders: A Comprehensive Overview*, p. 5 (2016); Pa. Dep’t of Corrs., *Recidivism 2022 Report*, p. 4 (2022). This research roughly comports with the typical practice in other jurisdictions, which impose time limits of, on average, approximately 5 years following conviction for consideration of prior offenses when making licensing decisions.

About 5 years after it was committed, then, a prior offense may no longer be indicative of an individual’s likelihood of committing future offenses, and the offense may no longer have a “direct bearing” on necessary job duties and responsibilities. An applicant should not be prescriptively penalized for past conduct that, as research shows, may give no indication of the applicant’s likelihood of reoffending.

Therefore, the Acting Commissioner has included in the final rulemaking a requirement that the commission of an offense will no longer be considered “directly related” to a profession or occupation and, therefore, will no longer create a rebuttable presumption that the applicant is unfit for licensure, if at least 5 years have passed since the individual was convicted of the offense. Although research shows that the risk of recidivism for violent offenders may remain slightly elevated relative to the general population at 5 years, the Acting Commissioner believes this remains an appropriate benchmark for at least two reasons. First, the legislative intent of Act 53 was to reduce barriers to licensure for ex-offenders, which a shorter time limit facilitates. Second, although the risk of recidivism is greater among individuals convicted of serious violent crimes, those offenses already are subject to extended time limits under 63 Pa.C.S. § 3113(e). Again, the Acting Commissioner stresses that the law still obligates the boards to make an individualized assessment of each applicant, including by considering the time that has passed since any prior offense, when reviewing applications for licensure.

The second additional concern raised by commenters opposed to the proposed rulemaking relates to the burdens faced by applicants with prior convictions who may invest substantial time and money into acquiring the training and education necessary to be eligible for licensure only to later learn that their prior conviction makes them presumptively ineligible. The PA Workforce Development Association, for instance, further suggests that the boards should offer rebates or waivers for such investments upon deciding to deny an application for licensure, and Theresa Alberici proposes an appeal process for application decisions before the individual has undertaken extensive education.

The Acting Commissioner agrees that these commenters express a reasonable concern and believes the process prescribed by 63 Pa.C.S. § 3115 (relating to preliminary determinations by licensing boards and licensing commissions)—set forth in § 43b.403 (relating to preliminary determinations)—whereby potential applicants can seek preliminary determinations by boards of their fitness for licensure, satisfactorily balances the needs of protecting public safety and providing a transparent process for individuals seeking to enter professional life. In further consideration of the financial burden attendant with seeking professional licensure, and mindful of IRRC’s request to outline procedures for seeking fee waivers, the Acting Commissioner notes that the process for requesting a fee waiver is already incorporated as part of the application for a preliminary determination. However, the Acting Commissioner has added to § 43b.403 the standards by which an applicant seeking a preliminary determination of fitness for licensure can establish *in forma pauperis* status in order to obtain waiver of the fee requirement as suggested by the Pardon Project. The Acting Commissioner believes that the Pardon Project’s suggestion – to waive fees for individuals who can demonstrate that they are either receiving means-tested public assistance or whose household income is at or below 200% of the federal poverty guidelines – provides clear and objective standards for evaluating fee waiver requests.

Finally, two commenters support the proposed rulemaking while recommending that certain of the schedules be expanded. The Pennsylvania Society of Health-System Pharmacists states that the schedule of offenses for the State Board of Pharmacy was appropriate but that the regulatory language should be amended to clarify that it extends to applicants for the pharmacy intern registration. IRRC also requested that the Acting Commissioner specify that the rules relating to drug trafficking offenses set forth in § 43b.404(d) (relating to consideration of criminal convictions) apply to pharmacy interns. The Acting Commissioner agrees and has added this language to the final-form rulemaking.

The PA Institute of Certified Public Accountants (PICPA) argues that the Accountancy Board’s schedule of offenses should be expanded to include 13 additional theft, fraud, and counterfeiting crimes, which the commenter argues “directly relate to the duties necessary to ensure the public’s trust and confidence in the profession.” Specifically, PICPA recommended the Acting Commissioner include the following offenses on the Accountancy Board schedule: 18 Pa.C.S. § 3930 (relating to theft of trade secrets); 18 Pa.C.S. § 3931 (relating to theft of unpublished dramas and musical compositions); 18 Pa.C.S. § 3935.1, (relating to theft of secondary metal); 18 Pa.C.S. § 4116 (relating to copying; recording devices); 18 Pa.C.S. § 4116.1 (relating to unlawful operation of recording device in motion picture theater; 18 Pa.C.S. § 4118 (relating to washing vehicle titles); 18 Pa.C.S. § 4119 (relating to trademark counterfeiting); 18 Pa.C.S. § 5101 (relating to obstructing administration of law or other governmental function); 18 Pa.C.S. § 5105 (relating to hindering apprehension or prosecution); 18 Pa.C.S. § 5111 (relating to dealing in proceeds of unlawful activities); 18 U.S.C.A. § 1341 (relating to mail fraud); 18 U.S.C.A. § 1347 (relating to health care fraud; and 75 Pa.C.S. § 7122 (relating to altered, forged, or counterfeit documents and plates). In its comments, IRRC also requested that the Commissioner carefully consider PICPA’s recommendations.

Respectfully, the Acting Commissioner does not believe that any of the recommended offenses belong on the final schedule. First, the PICPA argues that each of the recommended

offenses already had been included on the schedules for other boards and commissions. That, however, is no longer the case after the Acting Commissioner’s review and amendments. Second, the recommended offenses do not meet the strict statutory definition of being “directly related” to the accounting profession. Moreover, the recommended offenses may indicate generally dishonest conduct but do not specifically pertain to necessary duties of accountants, which largely involve matters of financial analysis and recordkeeping. The schedule of offenses for the Accountancy Board in the final-form rulemaking is extensive and includes those offenses the Acting Commissioner has determined are directly related to the necessary responsibilities of accountants.

*Description of the Amendments made to the Final-form Rulemaking*

The following is a section-by-section description of the amendments made to the final-form rulemaking.

§ 43b.403 (relating to preliminary determinations)

The Acting Commissioner amended § 43b.403(a)(3)(ii) to clarify that an applicant seeking a preliminary determination may apply for the waiver on the preliminary determination application and to provide standards for the granting of the fee waiver if the applicant either demonstrates that the applicant receives means-tested public assistance or the applicant’s household income is at or below 200% of the Federal poverty guidelines.

§ 43b.404 (relating to consideration of criminal convictions)

The Acting Commissioner amended/reorganized subsection (a)(2)(i) pertaining to the “individualized assessment” to clarify that if an individual’s offense is on the applicable licensing board or commission’s schedule, there shall be a rebuttable presumption that licensure, certification, permitting or registration of the individual would pose a substantial risk to the health and safety of the individual’s patients or clients or the public or a substantial risk of further criminal convictions. The individual may rebut that presumption using the factors in paragraph (3). The applicable board or commission will then conduct an individualized assessment using those factors to determine if a license, certificate, permit or registration may be granted notwithstanding the conviction.

Conversely, if the individual’s criminal conviction is not on the schedule, the applicable board or commission retains the discretion to determine whether, due to the nature of the criminal conduct that led to the conviction, the licensure, certification, permitting or registration of the individual would pose a substantial risk to the health and safety of the individual’s patients or clients or the public or a substantial risk of further criminal convictions. If so, the board or commission will conduct an individualized assessment, and the individual may rebut the board or commission’s determination by showing evidence of rehabilitation as set forth in the factors in paragraph (3).

In addition, noting that the licensing boards and commissions do not only issue “licenses,” but also certifications, permits and registrations, the Acting Commissioner is taking this

opportunity to clarify that the provisions of Act 53 apply to each of these credentials issued by the boards and commissions.

In response to comments, the Acting Commissioner also amended subsection (d)(2)(ix) to specify that § 43b.404(d)(1) pertaining to the applicability of statutory limits regarding drug trafficking offenses to certain credentials regulated by the State Board of Pharmacy, also applies to pharmacy interns.

§§ 43b.421-43b.451 (relating to the schedules of related offenses)

The Acting Commissioner has amended each of the schedules of offenses to adhere more strictly to the textual language and legislative intent of Act 53. Each of the revised schedules, along with related information, are also set forth as Appendix A to the Regulatory Analysis Form.

In addition, each of the schedules were amended to make it clear which crimes (those that are deemed “directly related” to the relevant professions/occupations) would raise a rebuttable presumption that the individual’s licensure, certification, permitting or registration poses a substantial risk to the individual’s patients or clients or to the public or a substantial risk of further criminal convictions in accordance with § 43b.404(a)(2)(i).

The Acting Commissioner also added an additional subsection to each of the schedules to make it clear that each licensing board and commission retains the discretion to determine that, due to the nature of the criminal conduct that led to the conviction, the licensure, certification, permitting or registration of an individual with a criminal conviction for an offense not listed in the schedule would pose a substantial risk to the health and safety of the individual’s clients or to the public or a substantial risk of further criminal convictions in accordance with § 43b.404(a)(2)(ii), and that the individual may rebut that determination by showing evidence of rehabilitation utilizing the factors in § 43b.404(a)(3).

§ 43b.452 (relating to time limits)

The Acting Commissioner has added this section to prescribe that an offense identified by the relevant licensing board or commission as directly related to a profession or occupation on the schedules set forth in §§ 43b.421—43b.451 will no longer be considered directly related to the profession or occupation for which the individual seeks licensure, for purposes of the assessment required in § 43b.404, if at least 5 years have passed since the individual’s conviction of that offense.

*Fiscal Impact and Paperwork Requirements*

As discussed in the proposed rulemaking, the only costs and additional paperwork associated with this rule are related to the application for a preliminary determination. The fee to apply for a preliminary determination is \$45. Individuals seeking a preliminary determination must file an application through PALS and pay the fee, or request *in forma pauperis* status by demonstrating as part of the application that the individual is either on means-based public assistance or whose annual household income is at or less than 200% of the Federal poverty

guidelines. Based on data over the nearly 3 years since implementation, where an average of 375 applications for preliminary determination were filed annually, the Commissioner estimates these costs to be approximately \$16,875 per year.

### *Regulatory Review*

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on November 4, 2022, the Acting Commissioner submitted a copy of the notice of proposed rulemaking, published at 52 Pa.B. 7108 (November 19, 2022) and a copy of a Regulatory Analysis form to IRRC and to the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee (the Committees) for review and comment. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Acting Commissioner submitted to IRRC and the Committees copies of comments received as well as other documents when requested. In preparing the final-form regulation, the Acting Commissioner has considered all comments from IRRC, the prime sponsors of Act 53, and the public. No comments from the Committees were received.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on February 14, 2024, the Acting Commissioner originally delivered this final-form rulemaking to IRRC and to the Chairpersons of the Committees. Under section 5.1(j.2) of the Regulatory Review Act, the final-form rulemaking was deemed approved by the Committees on April 17, 2024. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 18, 2024, and disapproved the final-form rulemaking. IRRC issued its disapproval order on May 21, 2024.

Under section 7(c) of the Regulatory Review Act (71 P.S. § 745.7(c)), on June 3, 2024, the Acting Commissioner delivered to IRRC and the Committees a revised final-form rulemaking and report in response to IRRC's disapproval order. Under section 7(c.1) of the Regulatory Review Act (71 P.S. § 745.7(c.1)), IRRC met on \_\_\_\_\_, 2024, and approved the revised final-form rulemaking. Under section 7(d) of the Regulatory Review Act (71 P.S. § 745.7(d)), the revised final-form rulemaking was deemed approved by the Committees on \_\_\_\_\_, 2024.

### *Additional information*

Additional information may be obtained by writing to the Acting Commissioner Arion Claggett, at P.O. Box 2649, Harrisburg, PA 17105-2649; by phone at 1-833-DOS-BPOA (1-833-367-2762) or by e-mail to RA-STRegulatoryCounsel@pa.gov.

### *Findings*

The Acting Commissioner 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), known as the

Commonwealth Documents Law and the regulations promulgated thereunder, 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 all comments received were considered in drafting this final-form rulemaking.

(3) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 52 Pa.B. 7108.

(4) This final-form rulemaking is necessary and appropriate for the administration of the act of July 1, 2020 (P.L. 545, No. 53) (Act 53) (codified at 63 Pa.C.S. §§ 3112—3118).

*Order*

The Acting Commissioner, therefore, orders that:

(a) The regulations of the Commissioner at 49 Pa. Code Chapter 43b are amended by amending § 43b.201 (relating to fees for services) and adding Subchapter E (relating to consideration of criminal convictions) as set forth in the Annex.

(b) The Acting Commissioner shall submit the final-form regulation to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Acting Commissioner shall submit the final-form regulation to IRRC, the HPLC and the SCP/PLC as required by law.

(d) The Acting Commissioner shall certify the final-form regulation and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-form regulation shall take effect upon notice or publication in the *Pennsylvania Bulletin*.

Arion R. Claggett  
Acting Commissioner of Professional and  
Occupational Affairs

Commenters List 16A-66 Consideration of Criminal Convictions

General Assembly Joint Comment					
Representative Sheryl M. Delozier	PA House of Representatives	88th Legislative District			
Representative Jordan A. Harris	PA House of Representatives	186th Legislative District			
Senator John DiSanto	PA Senate	15th Senate District			
Senator Judith L. Schwank	PA Senate	11th Senate District			
Public Commentors					
Last Name	First Name	Organization	E-mail	Mailing Address	City, St Zip
Alberici	Theresa		tmralberici4@gmail.com		
Alvarez	Alexis	American Civil Liberties Union	AlexisA@aclu.org		
Amann	Carrie	PA Workforce Development Association	camann@pawork.org	205 House Avenue, Suite 101	Camp Hill, PA 17011
Bottler	Jeanette	Justice Action Network	jenna@justiceactionnetwork.org	444 N. Capitol Street, NW, Suite 200	Washington, DC 20001
Calcara	Peter	Pennsylvania Institute of Certified Public Accountants	palcara@picpa.org	500 N. Third Street, Suite 600A	Harrisburg, PA 17101
Cardenas	Deborah	Pennsylvania State Nurses Association	tdougherty@psna.org		
Clark	Rebecca	PA American College of Nurse-Midwives'	rrsclark@nursing.upenn.edu	418 Curie Blvd.	Philadelphia, PA 19104
Elk	Sara	Eastern State Penitentiary Historic Site, Inc.	sje@easternstate.org	2027 Fairmount Avenue	Philadelphia, PA 19130
Gibson	Erica	City of Philadelphia	Erica.Gibson@Phila.gov	215 City Hall	Philadelphia, PA 19107
Halper	Alex	PA Chamber of Business and Industry	ahalper@pachamber.org	417 Walnut Street	Harrisburg, PA 17101
Jones	Larry	Pennsylvania Society of Health-System Pharmacists	PSHP.execdir@pshp.org		
Miller	Keith	Pennsylvania Chiropractic Association	enielsen@pennchiro.org	1335 North Front Street	Harrisburg, PA 17102
Oxholm III	Carl	The Pardon Project	Oxholm@plsephilly.org	230 South Broad Street, Suite 1102	Philadelphia, PA 19102
Pacheco	Taylor	Philadelphia Lawyers for Socai Equity	pacheco@plsephilly.org	230 S. Broad St., Suite 1102	Philadelphia, PA 19102
Pearl	Peggy	Pennsylvania Coalition of Nurse Practitioners	ppearl@pacnp.org	2400 Ardmore Blvd., Ste. 302	Pittsburgh, PA 15221
Schlamb	Cheryl	PA Coalition of Nurse Practitioners	president@pacnp.org	2400 Ardmore Blvd., Ste. 302	Pittsburgh, PA 15221
Shubik-Richards	Claire	Pennsylvania Prison Society	cshubik@prisonsociety.org	230 S. Broad Street, Suite 605	Philadelphia, PA 19102
Sims	Akeem	Pardon Project Steering Committee	PPSC@plsephilly.org	230 S. Broad Street, Suite 1102	Philadelphia, PA 19102
Stiefel	Frank	Last Prisoner Project	frank@lastprisonerproject.org	1312 17th St. #640	Denver, CO 80202
Svoboda-Kindle	Katie	Community Legal Service	kkindle@clsphila.org	1424 Chestnut St.	Philadelphia, PA 19102
Wiggins	Laura	Pennsylvania Association of Nurse Anesthetists	Shauna.Boscaccy@gslpublicaffairs.com		

**INDEPENDENT REGULATORY REVIEW COMMISSION  
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held April 18, 2024

George D. Bedwick, Chairman  
John F. Mizner, Esq., Vice Chairman  
John J. Soroko, Esq.  
Dennis A. Watson, Esq.

Order Issued May 21, 2024  
Regulation No. 16A-66 (#3361)  
Bureau of Professional and Occupational Affairs  
Consideration of Criminal Convictions

On November 4, 2022, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Bureau of Professional and Occupational Affairs (Bureau). This rulemaking amends 49 Pa. Code Chapter 43b. The proposed regulation was published in the November 19, 2022 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 15, 2024.

This final-form regulation includes a proposed schedule of criminal convictions directly related to each of the 29 professional and occupational licensing boards and commissions as required under 63 Pa.C.S. § 3117 (relating to list of criminal offenses). The Bureau was required to develop such a schedule as directed by Act 53 of 2020.

If an applicant for a license has a past conviction for a crime that is on the directly-related schedule of crimes, it creates a rebuttable presumption that the applicant is unfit for licensure. Additionally, under the final-form regulation, if the past conviction is for a crime that is not on the directly-related schedule, the rebuttable presumption does not apply but each Board still retains the power to deny licensure.

The initial schedule of criminal offenses developed by the Bureau and contained in the proposed version of this rulemaking was the subject of extensive comments from the regulated community, members of the General Assembly, and this Commission. Among the comments voiced were concerns that the schedule of convictions developed by the Bureau was overinclusive in that certain offenses on the schedule may not directly relate to the professions in which applicants may seek to practice and was contrary to the intent of the General Assembly. In developing the final-form version of the regulation, the Bureau conducted a review of the schedule of criminal offenses in the proposed regulation and, in response to comments from the legislature and public, it revised the schedule of each licensing board in the final-form regulation.

The Commission appreciates the Bureau's efforts to update the schedule of directly-related criminal convictions and the progress made in that regard. However, we have also expressed concerns that in some instances, offenses with direct bearing on the conduct, services, and practices of various occupations and professions have been removed from the schedule of convictions in the final-form regulation. In the view of the Commission, the removal of these provisions lacks clarity, and is neither reasonable nor sufficient to adequately protect the public health, safety, and welfare – criteria which we are obligated to consider under Pennsylvania's Regulatory Review Act. 71 P.S. §§ 745.5b(b), (b)(2), (b)(3)(ii) and (b)(3)(iv).

The schedule of criminal offenses is meant to delineate specific crimes directly relevant to the candidacy of individuals for licensure in occupations and professions where those individuals would directly and personally impact the lives of the citizens of this Commonwealth. At the public meeting held on April 18, 2024, there was extended discussion by members of the Commission about various crimes which the Bureau proposed deleting from the schedule of criminal offenses and we raised concerns regarding the impact of such changes.

As a result of such concerns, the Commission determined that the final-form regulation is not in the public interest. Consequently, we ask the Bureau to review the final-form regulation and evaluate which convictions directly relate to candidacy under each of the 29 boards and commissions with the benefit of the concerns and objections raised at the Commission's meeting. We also ask for the Bureau to explain in further detail how the removal of convictions is reasonable and protects the public health, safety, and welfare. The Bureau can also improve the clarity of this rulemaking by further detailing the licensure process and expanding on its authority to deny licensure for past convictions for crimes not appearing on the directly-related schedule of criminal convictions.

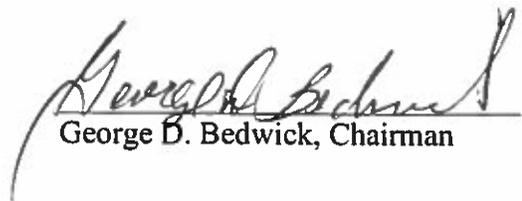
We appreciate the tremendous efforts of the General Assembly and the Bureau to eliminate barriers to employment for those seeking occupational and professional licenses in the Commonwealth. It is not the role of the Commission to micromanage the schedule of offenses; however, safeguarding public health and safety is an integral part of this process, as is a determination that these rules comply with Pennsylvania law and are in the public interest under the Regulatory Review Act.

While the promulgation of this regulation is consistent with the statutory authority of the Bureau and the intention of the General Assembly under Act 53 of 2020, after considering the criteria of the Regulatory Review Act relating to protection of the public health, safety, and welfare, reasonableness, and clarity, we find promulgation of this regulation is not in the public interest.

**BY ORDER OF THE COMMISSION:**

This regulation is disapproved.



  
George B. Bedwick, Chairman

**Report of the Acting Commissioner of Professional and Occupational Affairs**  
**Response to IRRC’s Order Disapproving Regulation 16A-66 – Consideration of Criminal Convictions (IRRC No. 3361)**

At its meeting on April 18, 2024, the Independent Regulatory Review Commission (IRRC) voted to disapprove the Acting Commissioner’s final-form rulemaking, number 16A-66, relating to consideration of criminal convictions. The disapproval order was delivered to the Acting Commissioner on May 21, 2024.

This final-form rulemaking fully implements Act 53 of 2020, relating to consideration of criminal convictions in making licensure, certification, permitting and registration decisions by the 29 licensing boards and commissions within the Bureau of Professional and Occupational Affairs (Bureau). The rulemaking addresses multiple provisions of Act 53, including: processes for handling applications for preliminary determinations, including the standards for demonstrating *in forma pauperis* status for the purpose of granting fee waivers; Act 53’s two-stage analysis for determining whether an individual with a criminal conviction nonetheless qualifies for a license, certificate, permit or registration; the adoption of schedules of criminal offenses which may constitute grounds to refuse to issue, suspend or revoke a license, certificate, permit or registration; and the availability of restricted licenses for barbers and cosmetologists. After the Acting Commissioner published the proposed rulemaking in November of 2022, numerous public commenters, as well as the four prime sponsors of Act 53—Representatives Delozier and Harris in the House and Senators DiSanto and Schwank in the Senate--objected to the schedules of criminal convictions that may constitute grounds to refuse to issue a license, certificate, permit or registration as overbroad and in direct contradiction of the spirit of the legislation and the intention of its makers. The prime sponsors made it clear that “Act 53 was drafted and amended with the objective of offering a pathway to licensure for those with criminal convictions who have paid

their debt to society” and to eliminate barriers to licensure on the sole basis of convictions that were not directly related or connected to the profession for which licensure was sought.

In response to these comments, the Acting Commissioner undertook a comprehensive, evidence-based review of the schedules of criminal offenses and presented the final-form rulemaking for review by IRRC. In drafting the final-form regulation, the Acting Commissioner strove to include only those offenses that had a “direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related” to the regulated occupation. 63 Pa.C.S. § 3102. The Acting Commissioner’s interpretation of this standard, and the method by which it was applied, is explained more fully in Attachment 1 to the Regulatory Analysis Form at pp. 1–2.

Specifically, the criteria the Acting Commissioner used to determine whether an offense met the narrow statutory definition of “directly related” included a consideration of whether the offense meaningfully relates to a necessary duty or responsibility of the profession that generally will be required of **all** licensees engaging in that occupation. In other words, the duty or responsibility must be essential to and inherent in the profession, and not a task that may arise only sometimes or incidentally, or one that would be applicable to a variety of professional settings. And the offense must indicate an inability to perform specific and essential professional duties or responsibilities, or that such duties or responsibilities pose unique circumstances for a heightened risk of reoffending. Therefore, if these criteria, and those expanded upon in Attachment 1 to the RAF, were not satisfied, in the Acting Commissioner’s judgment those offenses did not merit inclusion in the schedules.

This judgment was shared and endorsed by the drafters of the legislation in the General Assembly and virtually all organizations and individuals—representing various stakeholder groups

and the public interest more broadly—who submitted comments on the final-form regulation. This extraordinary consensus, both among bipartisan members of the General Assembly who drafted the legislation these regulations implement, as well as diverse stakeholders such as Community Legal Services, American Civil Liberties Union, and the Pennsylvania Chamber of Business and Industry, speaks to the balance that the Acting Commissioner sought to strike. As the four co-sponsors concluded in their letter endorsing the revisions:

These regulations comply with the intent of Act 53, which is to open the professions more widely to rehabilitated people with old and unrelated criminal record and to provide relief to businesses struggling to find qualified workers. We support the final-form rulemaking for Act 53 and commend BPOA for its revisions.

Despite this broad consensus, IRRC disapproved the final-form rulemaking at its April 18, 2024, meeting. There, some Commissioners expressed concerns that certain offenses they viewed as bearing on the conduct, services, and practice of a regulated occupation or profession had been removed from the relevant schedules. IRRC questioned whether the removal of these offenses was reasonable and adequately protects public health, safety, and welfare. IRRC also suggested that it would improve the clarity of this rulemaking to further detail the licensure process and expand on the boards' authority to consider past convictions for crimes not appearing on the schedules of criminal offenses when making licensure determinations.

As requested by the Commission, the Acting Commissioner again reviewed the final-form regulation to evaluate which convictions directly relate to candidacy for licensure under each of the 29 boards and commissions. Upon such review, and in respectful consideration of the comments raised by the members of the Commission at its meeting, the Acting Commissioner has provided adjustments to the regulation but does not believe that substantive changes to the schedules of criminal offenses in the final-form regulation are warranted. The Acting Commissioner believes that these adjustments, along with further emphasis on the process and

each Board's obligation to review all prior criminal convictions as part of an individualized assessment of the qualifications of an applicant addresses the Commission's concerns.

The legislative intent of Act 53—as emphasized by the principal sponsors and public commenters in response to the initial rulemaking—was to limit the types of offenses which should make an otherwise-qualified applicant presumptively unfit for licensure to those that are directly related to the relevant profession. As a result, the law requires the Acting Commissioner to exclude from the lists offenses that might only have a tangential relationship to the relevant profession. The Acting Commissioner's decision to maintain the lists of offenses as set forth in the final-form rulemaking is consistent with this legislative mandate and does not reflect a disregard for the concern—expressed at times by members of the Commission—that conviction of a particular offense may indicate an individual's dishonesty or recklessness such that a member of the public may be uncomfortable with entrusting that individual with the variety of professional obligations that might attend licensure. The lists set forth in the final-form rulemaking were drafted to discharge this legislative obligation as reflected by the wide-ranging support expressed by members of the public and the legislative sponsors who support this final-form regulation.

Moreover, the Commission can be confident that nothing in this regulation will undermine public safety. In response to the Commission's comments, the Acting Commissioner has revised the final-form rulemaking to clarify that the various boards and commissions have a duty to review all prior criminal convictions as part of an individualized assessment as to whether a license, certificate, permit or registration should be issued to an applicant. This new text, added to the processes and schedules of offenses for each of the separate boards and commissions, removes any doubt as to the boards' authority and obligation to look beyond the published schedules of offenses at any prior criminal misconduct that may indicate an applicant could be unfit for licensure, and to

act accordingly. It also should help to clarify that the final-form regulation is reasonable and comports with the Bureau's mission of promoting public safety.

The licensing boards and commissions are unequivocally committed to protecting the public health and safety. Neither the governing legislation nor this final-form regulation authorizes a board to issue a license to an applicant whom the board believes to be unfit. Rather, Act 53 specifically empowers the boards to review all criminal history and determine whether the nature of an applicant's prior criminal conduct poses either a substantial risk to the health and safety of patients, clients, or the public, or a substantial risk of further criminal convictions. The removal of offenses from the schedules contained in the initial proposed regulation does not hinder the ability of the boards to review applicants for licensure and determine suitability under the law, but solely serves to remove the presumption that these offenses are in all cases disqualifying for all licensees.

The process imposed by Act 53 and this final-form regulation balances fairness to applicants with unrelated past misconduct and the responsibility of the boards to protect the public. Conviction of a scheduled offense imposes a rebuttable presumption that an applicant or licensee is unfit for licensure, a presumption that the individual can rebut utilizing various criteria and thereby shifting the burden to the boards to demonstrate the applicant's unfitness. Conviction of an offense not on a list nevertheless may be grounds for a board to determine that an applicant may be unfit for licensure based on the nature of that criminal conduct, thereby still shifting the burden to the applicant to prove they are not a risk to public safety. *See* 63 Pa.C.S. § 3113(b)(2). This burden-shifting process removes categorical barriers for individuals whose prior misconduct is not indicative of their fitness for licensure; it does not undermine the boards' capability to protect the public. In all cases, a licensing board retains the authority and duty to consider an applicant's

fitness for licensure, including whether that applicant has engaged in past criminal misconduct that indicates the applicant poses a risk to public health and safety if granted licensure.

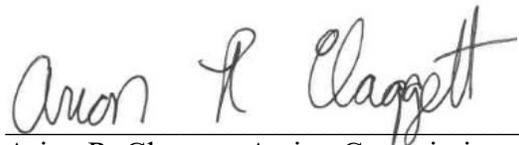
The Acting Commissioner also notes that the schedules of criminal offenses are not the only tools the boards and commissions have at their disposal in their efforts to protect the public health and safety. In appropriate circumstances, the boards and commissions may grant restricted or probationary licenses to individuals with criminal convictions in lieu of refusal. Many of the boards and commissions have the ability to address some of the removed offenses – for example, DUI and DUI-related offenses – under statutory provisions that authorize the denial of licensure if the board finds the applicant to be unable to practice safely because of impairment including dependence on alcohol or other substances. See, for example, 63 P.S. § 2400.703(a)(2). Many of the boards and commissions also have the Professional Health Monitoring Program (PHMP) to assist in situations where individuals are convicted of crimes relating to drugs or alcohol, or for crimes committed as a result of addiction.

Thus, the revisions to the final-form rulemaking in no way jeopardize the public health and safety. This regulation fulfills the legislative intent of Act 53, balancing the opportunity for Pennsylvanians to pursue their chosen profession or occupation while still promoting the protection of the public from individuals who would pose a risk to the public health and safety if granted licensure. In fact, the final-form regulation's revised schedules of offenses promote public welfare by increasing access to professional opportunities for individuals who previously may have been denied such access or deterred from applying on the basis of misconduct that would not have a bearing on the individual's fitness for licensure. The Commonwealth benefits from permitting hard-working, qualified individuals to pursue meaningful careers providing critical services to Pennsylvanians. As expressed by all four original sponsors of Act 53 in their support

for the final-form regulation, this was the purpose motivating the enactment of Act 53 by the public's representatives in the General Assembly. The Acting Commissioner believes that the final-form regulation, as revised herein, implements this legislative intent in fulfillment of the Acting Commissioner's statutory obligations.

The Acting Commissioner respectfully submits this report under section 7(c) of the Regulatory Review Act (71 P.S. § 745.7(c)) and encloses a copy of the revised final-form rulemaking and the findings of the Commission. The Acting Commissioner requests that IRRC approve the rulemaking as revised. The Acting Commissioner believes that the rulemaking, as revised, effectuates the legislative intent and protects both the public health and safety and the ability of individuals convicted of past criminal offenses to pursue a profession or occupation that requires licensure by one of the 29 professional and occupational boards and commissions within the Bureau.

Respectfully Submitted:

A handwritten signature in black ink that reads "Arion R. Claggett". The signature is written in a cursive style with a horizontal line underneath it.

Arion R. Claggett, Acting Commissioner of  
Professional and Occupational Affairs

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL  
AFFAIRS**

**Subchapter C. FEES**

**§ 43b.201. Fees for services.**

The following fees are charged for services provided by the Commissioner/Bureau:

Expungement of a disciplinary record.....	\$155
<u>Petition for a preliminary determination.....</u>	<u>\$ 45</u>

*(Editor's note: The following subchapter is proposed to be added and printed in regular type to enhance readability.)*

**Subchapter E. CONSIDERATION OF CRIMINAL CONVICTIONS**

**GENERAL PROVISIONS**

**§ 43b.401. Scope.**

This subchapter applies to all licensing boards and licensing commissions within the Department of State's Bureau of Professional and Occupational Affairs.

**§ 43b.402. Definitions.**

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

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

the Commonwealth.

*Directly relates*—The nature of the criminal conduct for which the individual was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the profession or occupation for which the individual seeks a license, certificate, registration or permit.

*Drug trafficking offense*—A violation of section 13(a)(14), (30) or (37) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)(14), (30) and (37)), if the controlled substance or a mixture containing the controlled substance meets the quantity or weight limitations set forth within the definition of “drug trafficking offense” at 63 Pa.C.S. § 3113(i) (relating to consideration of criminal convictions).

*Healing arts*—The science and skill of diagnosis or treatment in any manner whatsoever of disease or any ailment of the human body.

*Health care practitioner*—An individual who is authorized to practice some component of the healing arts by a license, certificate, registration or permit issued by any of the following licensing boards within the Bureau:

- (1) The State Board of Chiropractic.
- (2) The State Board of Dentistry.
- (3) The State Board of Examiners IN Speech-Language Pathology and Audiology.
- (4) The State Board of Medicine.
- (5) The State Board of Nursing.
- (6) The State Board of Occupational Therapy Education and Licensure.
- (7) The State Board of Optometry.
- (8) The State Board of Osteopathic Medicine.

- (9) The State Board of Pharmacy.
- (10) The State Board of Physical Therapy.
- (11) The State Board of Podiatry.
- (12) The State Board of Psychology.
- (13) The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, pertaining only to licensed clinical social workers, licensed marriage and family therapists and licensed professional counselors.

*Preliminary determination*—An evaluation of an individual’s criminal history information submitted to a professional or occupational licensing board or commission to determine whether the individual’s criminal conviction or convictions directly relate to the profession or occupation for which the individual is seeking a license, certificate, permit or registration, or would otherwise be grounds to refuse to issue a license, certificate, permit or registration as set forth in 63 Pa.C.S. § 3113 (d), (e) or (f).

**§ 43b.403. Preliminary determinations.**

(a) An individual who, based on a review of the “best practices guide” published on the Department’s website at [www.dos.pa.gov](http://www.dos.pa.gov) and the schedules of criminal convictions at §§ 43b.421—43b.451 (relating to schedules of criminal convictions), is unable to determine whether the individual’s criminal history would be grounds to deny the issuance of a license, certificate, permit or registration may request a preliminary determination by:

- (1) Filing an application for a preliminary determination in the format and manner prescribed by the Commissioner.
- (2) Providing all relevant information relating to the individual’s criminal conviction or convictions, including criminal court documents, such as the criminal complaint or

information, affidavit of probable cause, sentencing information and docket sheets that evidence the final disposition of the matter.

(3) Doing one of the following:

(i) Paying the preliminary determination application fee in § 43b.201 (related to fees for services).

(ii) Qualifying for a waiver of the fee by requesting and establishing *in forma pauperis* status by demonstrating that the individual is indigent or otherwise unable to pay the required fee. **AN APPLICANT MAY QUALIFY FOR A WAIVER**

**BY DEMONSTRATING ONE OF THE FOLLOWING AS PART OF THE APPLICATION FOR A PRELIMINARY DETERMINATION:**

**(A) THE APPLICANT RECEIVES MEANS-TESTED PUBLIC ASSISTANCE.**

**(B) THE APPLICANT’S HOUSEHOLD INCOME IS AT OR BELOW 200% OF THE FEDERAL POVERTY GUIDELINES.**

(b) The applicable licensing board or commission will issue the preliminary determination within 45 days of submission of the application.

**§ 43b.404. Consideration of criminal convictions.**

(a) *General rule.* Except as provided in subsections (b), (c) or (d), when determining whether an individual with a criminal conviction qualifies for a license, certificate, permit or registration, a licensing board or commission within the Bureau will engage in a two-stage analysis of an applicant’s criminal conviction, as follows:

(1) *First stage.* The applicable board or commission will determine whether the individual’s criminal conviction directly relates to the profession or occupation for which

the individual seeks licensure by reviewing the schedules in §§ 43b.421—43b.451 (relating to schedules of criminal convictions).

(2) *Second stage – individualized assessment.* The following apply:

(i) If the individual’s criminal conviction is on the applicable board’s or commission’s schedule, ~~the board or commission will then determine whether licensure of the individual would pose a substantial risk to the health and safety of the individual’s patients or clients or the public or a substantial risk of further criminal convictions by conducting an individualized assessment using the factors set forth in paragraph (3). If the individual was convicted of a crime that is on the applicable schedule,~~ there shall be a rebuttable presumption that licensure, **CERTIFICATION, PERMITTING OR REGISTRATION** of the individual would pose ~~such a risk, which may be rebutted by the A~~ **SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS. THE** individual **MAY REBUT THAT PRESUMPTION** using the factors in paragraph (3). **THE APPLICABLE BOARD OR COMMISSION WILL CONDUCT AN INDIVIDUALIZED ASSESSMENT USING THE FACTORS IN PARAGRAPH (3) TO DETERMINE IF A LICENSE, CERTIFICATE, PERMIT OR REGISTRATION MAY BE GRANTED NOTWITHSTANDING THE CONVICTION.**

(ii) If the individual’s criminal conviction is not on the applicable board’s or commission’s schedule, the board or commission will then determine whether, due

to the nature of the criminal conviction, **THE** licensure, **CERTIFICATION**, **PERMITTING OR REGISTRATION** of the individual would pose a substantial risk to the health and safety of the individual’s patients or clients or the public or a substantial risk of further criminal convictions. If so, the board or commission will conduct an individualized assessment using the factors set forth in paragraph (3). The individual may rebut the **BOARD’S OR COMMISSION’S** determination by showing evidence of rehabilitation as specified in the factors in paragraph (3).

(3) *Assessment factors.* A board or commission within the Bureau will consider the following factors in determining whether an individual with a criminal conviction qualifies for issuance of a license, certificate, permit or registration:

- (i) Whether the criminal conduct for which the individual was convicted involved an act or threat of harm against the individual, including harm to the victim, the personal property of the victim or the reputation of the victim.
- (ii) The facts and circumstances surrounding the criminal conviction.
- (iii) The number of criminal convictions.
- (iv) An increase in age or maturity of the individual since the date of the criminal conviction.
- (v) The individual’s criminal history, or lack of criminal history, after the date of the conviction.
- (vi) Evidence of successful completion of education and training activities, including those in a county correctional facility, a facility under the Department of Corrections, or comparable facility in another jurisdiction.
- (vii) References from employers or others, including personnel of the county

correctional facility, a facility under the Department of Corrections or a comparable facility in another jurisdiction.

(viii) Evidence of progress in personal rehabilitation since the conviction.

(ix) Whether the individual meets all other licensing qualifications of the applicable practice act, including any examination requirements.

(x) The individual's criminal history, or lack of criminal history, after the date of the criminal conviction while engaged in the same or similar profession or occupation.

(xi) Other relevant factors regarding the fitness of the individual for licensure.

(b) *Sexual offenses.* Under 63 Pa.C.S. § 3113(d) (relating to consideration of criminal convictions), a licensing board within the Bureau may not issue a license, certificate, permit or registration or otherwise allow an individual to practice as a health care practitioner if the individual has been convicted of a sexual offense as set forth in § 43b.421 (relating to schedule of sexual offenses).

(c) *Crimes of violence.* Under 63 Pa.C.S. § 3113(e), an individual convicted of a crime of violence set forth in § 43b.422 (relating to schedule of crimes of violence) may be granted a license, certificate, permit or registration by a licensing board or commission within the Bureau if all of the following apply:

(1) If the individual was incarcerated, at least 3 years have elapsed since release from incarceration. This 3-year period will be tolled for a violation of parole.

(2) If the individual is serving or has served a sentence other than a period of confinement in a State or country correctional facility, at least 3 years have elapsed since imposition of sentence.

- (3) The individual has remained conviction-free during the relevant 3-year period specified in paragraph (1) or (2), as applicable.
  - (4) The individual demonstrates significant rehabilitation since the criminal conviction.
  - (5) The licensing board or commission determines, using the factors in subsection (a)(3), except (a)(3)(viii), that ~~licensure~~ **ISSUANCE OF A LICENSE, CERTIFICATE, PERMIT OR REGISTRATION TO** the individual does not pose a substantial risk to the health and safety of the individual’s patients or clients or the public or a substantial risk of further criminal convictions.
- (d) *Drug trafficking offenses.*
- (1) The boards listed in paragraph (2) may not grant a license, certificate, permit or registration to an individual convicted of a drug trafficking offense unless:
    - (i) At least 10 years have elapsed from the date of conviction.
    - (ii) The individual satisfactorily demonstrates to the applicable board, utilizing the factors in subsection (a)(3), that the individual has made significant progress in personal rehabilitation since the conviction such that issuance of a license, certificate, permit or registration to the individual should not be expected to create a substantial risk to the health and safety of the individual’s clients or patients or the public or a substantial risk of further criminal convictions.
    - (iii) The individual otherwise satisfies the qualifications for the license, certificate, permit or registration sought.
  - (2) This subsection applies to the following licensing boards within the Bureau:
    - (i) The State Board of Chiropractic under section 501(a) of the Chiropractic

Practice Act (63 P.S. § 625.501(a)), pertaining to requirements for licensure as a chiropractor.

(ii) The State Board of Crane Operators under section 502(c) of the Crane Operator Licensure Act (63 P.S. § 2400.502(c)), pertaining to qualifications for licensure as a crane operator.

(iii) The State Board of Dentistry under section 3(c) of the Dental Law (63 P.S. § 122(c)), pertaining to qualifications for licensure as a dentist.

(iv) The State Board of Massage Therapy under section 5(a) of the Massage Therapy Law (63 P.S. § 627.5(a)), pertaining to qualifications for licensure as a massage therapist.

(v) The State Board of Medicine under sections 13.5(a)(8) and 22(b) of the Medical Practice Act of 1985 (63 P.S. §§ 422.13e(a)(8) and 422.22(b)), pertaining to qualifications for licensure as a prosthetist, orthotists, pedorthist, orthotic fitter, physician, midwife or physician assistant.

(vi) The State Board of Nursing under section 6(c) of the Professional Nursing Law (63 P.S. § 216(c)), pertaining to qualifications for licensure as a registered nurse or dietitian-nutritionist, and section 5 of the Practical Nurse Law (63 P.S. § 655), pertaining to qualifications for licensure as a practical nurse.

(vii) The State Board of Optometry under section 4(d) of the Optometric Practice and Licensure Act (63 P.S. § 244.4(d)), pertaining to general qualifications for licensure as an optometrist.

(viii) The State Board of Osteopathic Medicine under section 6(c) of the Osteopathic Medical Practice Act (63 P.S. § 271.6(c)), pertaining to qualifications

for licensure as an osteopathic physician.

(ix) The State Board of Pharmacy under sections 3(a) **AND (e)** and 3.3(a) and (b) of the Pharmacy Act (63 P.S. §§ 390-3(a) **AND (e)** and 3.3(a) and (b)), pertaining to qualifications for licensure as a pharmacist **OR REGISTRATION AS A PHARMACY INTERN**; and qualifications for pharmacy technician and pharmacy technician trainee registration.

(x) The State Board of Physical Therapy under section 6(a) of the Physical Therapy Practice Act (63 P.S. § 1306(a)), pertaining to qualifications for licensure as a physical therapist.

(xi) The State Board of Psychology under section 6(a) of the Professional Psychologists Practice Act (63 P.S. § 1206(a)), pertaining to qualifications for licensure as a psychologist.

(xii) The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors under section 7(a), (d), (e), (f) and (g) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1907(a), (d), (e), (f) and (g)), pertaining to qualifications for licensure as a social worker, clinical social worker, marriage and family therapist, professional ~~counsel~~ **COUNSELOR** and bachelor social worker.

(xiii) The State Board of Veterinary Medicine under section 9(b)(4) of the Veterinary Medicine Practice Act (63 P.S. § 485.9(b)(4)), pertaining to qualifications for licensure as a veterinarian.

**§ 43b.405. Restricted licenses for barbers and cosmetologists.**

(a) As an alternative to refusing to issue or renew, suspending, revoking or limiting a license

to practice barbering or cosmetology of an applicant who has a criminal conviction that may be an impediment to licensure, the State Board of Barber Examiners and the State Board of Cosmetology may grant a restricted license to an applicant who demonstrates, to the relevant board's satisfaction, the following, as applicable:

- (1) While incarcerated, the individual maintained a record of good behavior, including successful completion of any required rehabilitative programming offered by a county correctional facility or the Department of Corrections.
- (2) If incarcerated by a county correctional facility or the Department of Corrections and enrolled in a barber or cosmetology training program, the individual has successfully completed the requisite education or training requirements of the program.
- (3) The individual has not been found to be in violation of probation or parole.
- (4) The individual has demonstrated a commitment to living a law-abiding life, which may be established by one or more of the following:
  - (i) A personal statement of the individual detailing the individual's efforts at rehabilitation since the conviction.
  - (ii) A letter of recommendation from the individual's probation officer, parole officer or appropriate official within the county correctional facility or the Department of Corrections.
  - (iii) A letter or letters of recommendation from members of the community with knowledge of the individual's efforts at rehabilitation since the conviction.
  - (iv) A letter of recommendation from a licensed barber or cosmetologist with knowledge of the individual's efforts at rehabilitation since the conviction.
  - (v) Other relevant evidence of the individual's commitment to living a law-

abiding life.

- (b) A restricted license will be issued for a term of not less than 1 year and not more than 2 years, at the discretion of the applicable board.
- (c) The order granting a restricted license will set forth the conditions imposed by the applicable board, which may include any of the following:
  - (1) A limitation on the scope of the restricted license holder's practice.
  - (2) A limitation on the location of the restricted license holder's practice.
  - (3) A requirement that the restricted license holder be subject to the direct, on-premises supervision of a licensed manager-barber or a licensee designated in charge of the barber shop or a licensed cosmetology teacher, salon owner or designated licensee in charge of the salon, as applicable, during regular business hours, excluding breaks. A restricted license holder who is subject to supervision under this paragraph shall notify the applicable board in writing within 10 business days of a change in supervisor.
  - (4) Other condition that the applicable board deems appropriate.
- (d) Within 30 days of the conclusion of the term of the restricted license, the restricted license holder shall petition for termination of the period of restriction and issuance of an unrestricted license and shall certify that the restricted license holder has complied with all conditions imposed by the applicable board under subsection (c). If subject to supervision under subsection (c)(3), the restricted license holder's supervisor shall submit, within 30 days of the conclusion of the term of the restricted license, a letter to the applicable board providing notice as to whether the restricted license holder complied with all conditions imposed by the applicable board. If the restricted license holder has more than one supervisor during the period of restriction, each supervisor shall submit a separate letter.

(e) A restricted license is subject to disciplinary action for violations of the applicable board’s act or regulations.

(1) In addition, under 63 Pa.C.S. § 3112(d) (relating to restricted licenses for barbers and cosmetologists), a restricted license will be immediately revoked if any of the following occurs:

(i) The restricted license holder is convicted of an offense graded as a misdemeanor or felony in this Commonwealth or a similar or equivalent offense in another jurisdiction after the issuance of the restricted license.

(ii) The restricted license holder fails to comply with any of the conditions imposed by the applicable board under subsection (c).

(2) The restricted license holder will be afforded a post-deprivation hearing before the Board or a hearing examiner to challenge the revocation of the restricted license.

(f) As used in this section, “board” means the State Board of Barber Examiners or the State Board of Cosmetology.

## **SCHEDULES OF CRIMINAL CONVICTIONS**

### **§ 43b.421. Schedule of sexual offenses.**

For purposes of § 43b.404(b) (relating to consideration of criminal convictions), a “sexual offense” includes any of the following:

(1) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).

(2) The offenses enumerated in 18 Pa.C.S. Ch. 30 (relating to human trafficking), if the offense involved sexual servitude, including the following:

(i) 18 Pa.C.S. § 3011 (relating to trafficking in individuals).

(ii) 18 Pa.C.S. § 3012 (relating to involuntary servitude).

- (iii) 18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual servitude).
  - (iv) 18 Pa.C.S. § 3014 (relating to unlawful conduct regarding documents).
  - (v) 18 Pa.C.S. § 3015 (relating to nonpayment of wages).
- (3) The offenses enumerated in 18 Pa.C.S. Ch. 31 (relating to sexual offenses), including the following:
- (i) 18 Pa.C.S. § 3121 (relating to rape).
  - (ii) 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
  - (iii) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
  - (iv) 18 Pa.C.S. § 3124.1 (relating to sexual assault).
  - (v) 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
  - (vi) 18 Pa.C.S. § 3124.3 (relating to sexual assault by sports official, volunteer or employee of nonprofit association).
  - (vii) 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
  - (viii) 18 Pa.C.S. § 3126 (relating to indecent assault).
  - (ix) 18 Pa.C.S. § 3127 (relating to indecent exposure).
  - (x) 18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).
  - (xi) 18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).
  - (xii) 18 Pa.C.S. § 3131 (relating to unlawful dissemination of intimate image).
  - (xiii) 18 Pa.C.S. § 3132 (relating to female mutilation).
  - (xiv) 18 Pa.C.S. § 3133 (relating to sexual extortion).
- (4) 18 Pa.C.S. § 4302 (relating to incest).
- (5) 18 Pa.C.S. § 4304(a)(1) (relating to endangering welfare of children), if the offense involved sexual contact with the victim.

- (6) 18 Pa.C.S. § 5901 (relating to open lewdness), if the offense involved a minor under 18 years of age.
- (7) 18 Pa.C.S. § 5902(b) or (b.1) (relating to prostitution and related offenses) pertaining to promoting prostitution and promoting prostitution of a minor.
- (8) 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances), if the offense involved a minor under 18 years of age.
- (9) 18 Pa.C.S. § 6301(a)(1)(i) (relating to corruption of minors), if the offense involved sexual contact with the victim.
- (10) 18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).
- (11) 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
- (12) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
- (13) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
- (14) 18 Pa.C.S. § 7507.1 (relating to invasion of privacy).
- (15) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in paragraphs (1)—(14).
- (16) An equivalent crime in another jurisdiction.

**§ 43b.422. Crimes of violence.**

For purposes of § 43b.404(c) (relating to consideration of criminal convictions), a “crime of violence” includes any of the following:

- (1) 18 Pa.C.S. § 2502(c) (relating to murder).
- (2) 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).
- (3) 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death).

- (4) 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of law enforcement officer).
- (5) 18 Pa.C.S. § 2604(c) (relating to murder of unborn child).
- (6) 18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child).
- (7) 18 Pa.C.S. § 2702(a)(1) and (2) (relating to aggravated assault).
- (8) 18 Pa.C.S. § 2702.1 (relating to assault of law enforcement officer).
- (9) 18 Pa.C.S. § 2716(b) (relating to weapons of mass destruction).
- (10) 18 Pa.C.S. § 2717 (relating to terrorism), when graded as a felony of the first degree.
- (11) 18 Pa.C.S. § 2718 (relating to strangulation), when graded as a felony.
- (12) 18 Pa.C.S. § 2901 (relating to kidnapping).
- (13) 18 Pa.C.S. § 3011 (relating to trafficking in individuals), when graded as a felony of the first degree.
- (14) 18 Pa.C.S. § 3121 (relating to rape).
- (15) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- (16) 18 Pa.C.S. § 3124.1 (relating to sexual assault).
- (17) 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
- (18) 18 Pa.C.S. § 3301(a) or (a.1) (relating to arson and related offenses).
- (19) 18 Pa.C.S. § 3311(b)(3) (relating to ecoterrorism).
- (20) 18 Pa.C.S. § 3502(a)(1) (relating to burglary).
- (21) 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).
- (22) 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).
- (23) 18 Pa.C.S. § 4302 (relating to incest).

(24) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in paragraphs (1)—(23).

(25) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

(26) An equivalent crime in another jurisdiction.

**§ 43b.423. Schedule of criminal convictions – State Board of Accountancy.**

(a) A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Accountancy (Board).

~~(b)(1)~~ Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(c)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the accountancy profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1)(i) 18 Pa.C.S. § 911 (relating to corrupt organizations).~~

~~(2) — 18 Pa.C.S. § 3701 (relating to robbery).~~

~~(3) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(4) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(5) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~

~~(6) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by~~

~~mistake).~~

~~(7) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~

~~(8) — 18 Pa.C.S. § 3926 (relating to theft of services).~~

~~(9) — 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~

~~(10) — 18 Pa.C.S. § 3929 (relating to retail theft) when graded as a felony.~~

~~(11) — 18 Pa.C.S. § 3929.3 (relating to organized retail theft).~~

~~(12) — 18 Pa.C.S. § 3932 (relating to theft of leased property).~~

~~(13) — 18 Pa.C.S. § 3934 (relating to theft from a motor vehicle).~~

~~(14) — 18 Pa.C.S. § 4101 (relating to forgery).~~

~~(15) — 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).~~

~~(16) (ii) 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~

~~(17) (iii) 18 Pa.C.S. § 4105 (relating to bad checks), when graded as a felony.~~

~~(18) (iv) 18 Pa.C.S. § 4106 (relating to access device fraud), when graded as a felony.~~

~~(19) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~

~~(20) — 18 Pa.C.S. § 4107.2 (relating to deception relating to certification of minority business enterprise or women's business enterprise).~~

~~(21) (v) 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~

~~(22) (vi) 18 Pa.C.S. § 4110 (relating to defrauding secured creditors).~~

~~(23) (vii) 18 Pa.C.S. § 4111 (relating to fraud in insolvency).~~

~~(24) (viii) 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property~~

of government or financial institutions).

~~(25) — 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~

~~(26) — 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~

~~(27) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~

~~(28) — 18 Pa.C.S. § 4120 (relating to identity theft).~~

~~(29) — 18 Pa.C.S. § 4701 (relating to bribery in official and political matters).~~

~~(30) — 18 Pa.C.S. § 4702 (relating to threats and other improper influence in official and political matters).~~

~~(31) — 18 Pa.C.S. § 4703 (relating to retaliation for past official action).~~

~~(32) (ix) 18 Pa.C.S. § 4902 (relating to perjury).~~

~~(33) (x) 18 Pa.C.S. § 4903 (relating to false swearing).~~

~~(34) (xi) 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~

~~(35) — 18 Pa.C.S. § 4909 (relating to witness or informant taking a bribe).~~

~~(36) — 18 Pa.C.S. § 4910 (relating to tampering with or fabricating physical evidence).~~

~~(37) — 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~

~~(38) — 18 Pa.C.S. § 4912 (relating to impersonating a public servant).~~

~~(39) (xii) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).~~

~~(40) — 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims) when graded as a felony.~~

~~(41) — 18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).~~

~~(42) — 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).~~

- ~~(43)~~ — 18 Pa.C.S. § 5107 (relating to aiding consummation of a crime).
- ~~(44)~~ — 18 Pa.C.S. § 5108 (relating to compounding).
- ~~(45)~~ — 18 Pa.C.S. § 5111 (relating to dealing in proceeds of unlawful activities).
- ~~(46)~~ **(xiii)** 18 Pa.C.S. § 7326 (relating to disclosure of confidential tax information).
- ~~(47)~~ — 18 Pa.C.S. § 7611 (relating to unlawful use of computer and other computer crimes).
- ~~(48)~~ — 18 Pa.C.S. § 7613 (relating to computer theft).
- ~~(49)~~ — 18 Pa.C.S. § 7615 (relating to computer trespass).
- ~~(50)~~ **(xiv)** 15 U.S.C.A. § 78j(b) (relating to manipulative and deceptive devices).
- ~~(51)~~ **(xv)** 26 U.S.C.A. § 7201 (relating to attempt to evade or defeat tax).
- ~~(52)~~ **(xvi)** 26 U.S.C.A. § 7202 (relating to willful failure to collect or pay over tax).
- ~~(53)~~ **(xvii)** 26 U.S.C.A. § 7203 (relating to willful failure to file return, supply information, or pay tax).
- ~~(54)~~ **(xviii)** 26 U.S.C.A. § 7204 (relating to fraudulent statement or failure to make statement to employees).
- ~~(55)~~ **(xvix)** 26 U.S.C.A. § 7205 (relating to fraudulent withholding exemption certificate or failure to supply information).
- ~~(56)~~ **(xx)** 26 U.S.C.A. § 7206 (relating to fraud and false statements).
- ~~(57)~~ **(xxi)** 26 U.S.C.A. § 7207 (relating to fraudulent returns, statements, or other documents).
- ~~(58)~~ **(xxii)** 26 U.S.C.A. § 7212 (relating to attempts to interfere with administration of Internal Revenue laws).
- ~~(59)~~ **(xxiii)** 26 U.S.C.A. § 7213 (relating to unauthorized disclosure of information).

~~(60)~~ **(xxiv)** 26 U.S.C.A. § 7215 (relating to offenses with respect to collected taxes).

~~(61)~~ **(xxv)** 26 U.S.C.A. § 7216 (relating to disclosure or use of information by preparers of returns).

~~(62)~~ **(xxvi)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)–(65)~~ **SUBPARAGRAPHS (i)–(xxv)**.

~~(63)~~ **(xxvii)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(64)~~ **(xxviii)** An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.424. Schedule of criminal convictions – State Architects Licensure Board.**

**(a)** A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Architects Licensure Board (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in

accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(e)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the architect profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

- ~~(1) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~
- ~~(2) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~
- ~~(3) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- ~~(4) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~
- ~~(5) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~
- ~~(6) — 18 Pa.C.S. § 3926 (relating to theft of services).~~
- ~~(7) — 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~
- ~~(8)~~ **(i)** 18 Pa.C.S. § 4101 (relating to forgery).
- ~~(9)~~ **(ii)** 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).
- ~~(10)~~ **(iii)** 18 Pa.C.S. § 4104(a) (relating to tampering with records or identification), **WHEN GRADED AS A MISDEMEANOR.**
- ~~(11) — 18 Pa.C.S. § 4105 (relating to bad checks), when graded as a felony.~~
- ~~(12) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~

~~(13) 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~

~~(14) 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~

~~(15) 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~

~~(16) 18 Pa.C.S. § 4117 (relating to insurance fraud).~~

~~(17) 18 Pa.C.S. § 4120 (relating to identity theft).~~

~~(18) 18 Pa.C.S. § 4121 (relating to possession and use of unlawful devices).~~

~~(19) (iv)~~ 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).

~~(20) (v)~~ Section 8 of the Home Improvement Consumer Protection Act (73 P.S. § 517.8, regarding home improvement fraud.

~~(21) (vi)~~ Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)–(20)~~ **SUBPARAGRAPHS (i)–(v)**.

~~(22) (vii)~~ An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(23) (viii)~~ An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL'S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE**

**WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD'S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.425. Schedule of criminal convictions – State Board of Auctioneer Examiners.**

(a) A conviction of any of the criminal offenses in ~~subsections (b) and (e)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Auctioneer Examiners (Board).

~~(b) (1)~~ Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(e) (2)~~ The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL'S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL'S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 911 (relating to corrupt organizations).~~

~~(2) — 18 Pa.C.S. § 2906 (relating to criminal coercion).~~

~~(3) — 18 Pa.C.S. § 2907 (relating to disposition of ransom).~~

~~(4) — 18 Pa.C.S. § 2909 (relating to concealment of the whereabouts of a child).~~

~~(5) — 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).~~

~~(6) — 18 Pa.C.S. § 3015(a) (relating to nonpayment of wages), pertaining to human trafficking.~~

~~(7) — 18 Pa.C.S. § 3016(a) (relating to obstruction of justice), pertaining to human~~

~~trafficking.~~

~~(8) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~

~~(9) — 18 Pa.C.S. § 3133 (relating to sexual extortion).~~

~~(10) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(11) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(12) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~

~~(13) (i) 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~

~~(14) (ii) 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~

~~(15) — 18 Pa.C.S. § 3926 (relating to theft of services).~~

~~(16) (iii) 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~

~~(17) — 18 Pa.C.S. § 3928 (relating to unauthorized use of automobiles and other vehicles).~~

~~(18) — 18 Pa.C.S. § 3929 (relating to retail theft).~~

~~(19) — 18 Pa.C.S. § 3929.1 (relating to library theft).~~

~~(20) — 18 Pa.C.S. § 3929.2 (relating to unlawful possession of retail or library theft instruments).~~

~~(21) — 18 Pa.C.S. § 3929.3 (relating to organized retail theft).~~

~~(22) — 18 Pa.C.S. § 3930 (relating to theft of trade secrets).~~

~~(23) — 18 Pa.C.S. § 3931 (relating to theft of unpublished dramas and musical compositions).~~

~~(24) — 18 Pa.C.S. § 3932 (relating to theft of leased property).~~

- ~~(25) — 18 Pa.C.S. § 3934 (relating to theft from a motor vehicle).~~
- ~~(26) — 18 Pa.C.S. § 3935.1 (relating to theft of secondary metal).~~
- ~~(27) — 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(28) (iv) 18 Pa.C.S. § 4102 (relating to simulating objects of antiquity, rarity, etc.).~~
- ~~(29) — 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).~~
- ~~(30) (v) 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~
- ~~(31) (vi) 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(32) (vii) 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~
- ~~(33) (viii) 18 Pa.C.S. § 4109 (relating to rigging publicly exhibited contest).~~
- ~~(34) — 18 Pa.C.S. § 4110 (relating to defrauding secured creditors).~~
- ~~(35) — 18 Pa.C.S. § 4111 (relating to fraud in insolvency).~~
- ~~(36) (ix) 18 Pa.C.S. § 4112 (relating to receiving deposits in a failing financial institution).~~
- ~~(37) (x) 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions).~~
- ~~(38) (xi) 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(39) — 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~
- ~~(40) — 18 Pa.C.S. § 4116 (relating to copying; recording devices).~~
- ~~(41) — 18 Pa.C.S. § 4116.1 (relating to unlawful operation of recording devices in motion picture theater).~~
- ~~(42) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(43) — 18 Pa.C.S. § 4118 (relating to washing vehicle titles).~~

- (44) **(xii)** 18 Pa.C.S. § 4119 (relating to trademark counterfeiting).
- ~~(45) 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(46) 18 Pa.C.S. § 4121 (relating to possession and use of unlawful devices).~~
- ~~(47) 18 Pa.C.S. § 4902 (relating to perjury).~~
- ~~(48) 18 Pa.C.S. § 4903 (relating to false swearing).~~
- ~~(49) 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(50) **(xiii)** 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(51) **(xiv)** 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).~~
- ~~(52) 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~
- ~~(53) 18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).~~
- ~~(54) **(xv)** Section 29(a) of the Auctioneer Licensing and Trading Assistant Registration Act (63 P.S. § 734.29(a)), pertaining to criminal penalties for unlicensed practice.~~
- ~~(55) **(xvi)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in paragraphs (1)–(54) **SUBPARAGRAPHS (i)–(xv)**.~~
- ~~(56) **(xvii)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.~~
- ~~(57) **(xviii)** An equivalent crime in another jurisdiction.~~

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND**

**SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.426. Schedule of criminal convictions – State Board of Barber Examiners.**

(a) A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Barber Examiners (Board).

~~(b) (1)~~ Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(c) (2)~~ The following additional criminal offenses that have been deemed by the Board as directly related to the barbering profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 2702 (relating to aggravated assault).~~

~~(2) — 18 Pa.C.S. § 2705 (relating to recklessly endangering another person).~~

~~(3) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(4) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(5) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~

~~(6) — 18 Pa.C.S. § 3926 (relating to theft of services).~~

~~(7) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~

~~(8) — 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~

~~(9) (i) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).~~

~~(10) — Section 13(a)(30) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)(30)), pertaining to the manufacture, delivery or possession with intent to manufacture or deliver, a controlled substance by a person not registered...or a practitioner not registered or licensed by the appropriate State board, or knowingly creating, delivering or possessing with intent to deliver, a counterfeit controlled substance.~~

~~(11) — 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), when graded as a felony.~~

~~(12) (ii) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in paragraphs (1)–(11) THE OFFENSE LISTED IN SUBPARAGRAPH (i).~~

~~(13) ) (iii) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.~~

~~(14) (iv) An equivalent crime in another jurisdiction.~~

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND**

**SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.427. Schedule of criminal convictions – State Board of Certified Real Estate Appraisers.**

(a) A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Certified Real Estate Appraisers (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(c)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board (appraisers and assessors), **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 3502 (relating to burglary).~~

~~(2) — 18 Pa.C.S. § 3503 (relating to criminal trespass), when graded as a felony.~~

~~(3) — 18 Pa.C.S. § 3701 (relating to robbery).~~

~~(4) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(5) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

- ~~(6) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- ~~(7) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~
- ~~(8) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~
- ~~(9) — 18 Pa.C.S. § 3926 (relating to theft of services).~~
- ~~(10) — 18 Pa.C.S. § 3932 (relating to theft of leased property).~~
- ~~(11) (i) 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(12) (ii) 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).~~
- ~~(13) (iii) 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~
- ~~(14) (iv) 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(15) (v) 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~
- ~~(16) (vi) 18 Pa.C.S. § 4110 (relating to defrauding secured creditors).~~
- ~~(17) (vii) 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(18) (viii) 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~
- ~~(19) (ix) 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(20) — 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(21) — 18 Pa.C.S. § 4701 (relating to bribery in official and political matters).~~
- ~~(22) — 18 Pa.C.S. § 4702 (relating to threats and other improper influence in official and political matters).~~
- ~~(23) — 18 Pa.C.S. § 4703 (relating to retaliation for past official action).~~

- ~~(24)~~ **(x)** 18 Pa.C.S. § 4902 (relating to perjury).
- ~~(25)~~ **(xi)** 18 Pa.C.S. § 4903 (relating to false swearing).
- ~~(26)~~ **(xii)** 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).
- ~~(27)~~—18 Pa.C.S. § 4909 (relating to witness or informant taking a bribe).
- ~~(28)~~ **(xiii)** 18 Pa.C.S. § 4911 (relating to tampering with public records or information).
- ~~(29)~~—18 Pa.C.S. § 4912 (relating to impersonating a public servant).
- ~~(30)~~ **(xiv)** 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).
- ~~(31)~~—18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims) when graded as a felony.
- ~~(32)~~—18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).
- ~~(33)~~—18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).
- ~~(34)~~ **(xv)** 18 Pa.C.S. § 7331 (relating to unlicensed mortgage loan business).
- ~~(35)~~—18 Pa.C.S. § 7611 (relating to unlawful use of computer and other computer crimes).
- ~~(36)~~—18 Pa.C.S. § 7613 (relating to computer theft).
- ~~(37)~~—18 Pa.C.S. § 7615 (relating to computer trespass).
- ~~(38)~~ **(xvi)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in paragraphs ~~(1)–(37)~~ **SUBPARAGRAPHS (i)–(xv)**.
- ~~(39)~~ **(xvii)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.
- ~~(40)~~ **(xviii)** An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.428. Schedule of criminal convictions – State Board of Chiropractic.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Chiropractic (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (c), (d) and (e)~~ **PARAGRAPHS (1), (2) and (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly related to the chiropractic profession, **WHICH SHALL RAISE A REBUTTABLE**

**PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

- ~~(1) — 18 Pa.C.S. § 2709.1 (relating to stalking).~~
- ~~(2) — 18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~
- ~~(3) (i) 18 Pa.C.S. § 2713 (relating to neglect of a care-dependent person).~~
- ~~(4) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~
- ~~(5) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~
- ~~(6) — 18 Pa.C.S. § 3926 (relating to theft of services).~~
- ~~(7) — 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~
- ~~(8) — 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(9) — 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~
- ~~(10) — 18 Pa.C.S. § 4106 (relating to access device fraud).~~
- ~~(11) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(12) — 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~
- ~~(13) — 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(14) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(15) — 18 Pa.C.S. § 4120 (relating to identity theft).~~

- ~~(16) — 18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~
- ~~(17) — 18 Pa.C.S. § 4902 (relating to perjury).~~
- ~~(18) — 18 Pa.C.S. § 4903 (relating to false swearing).~~
- ~~(19) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(20) — 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(21) (ii) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or a holder of a professional or occupational license).~~
- ~~(22) — 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~
- ~~(23) — 18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).~~
- ~~(24) — 18 Pa.C.S. § 5101 (relating to obstructing administration of law or other governmental function).~~
- ~~(25) — 18 Pa.C.S. § 5105 (relating to hindering apprehension or prosecution).~~
- ~~(26) — 18 Pa.C.S. § 5111 (relating to dealing in proceeds of unlawful activities).~~
- ~~(27) (iii) 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report a case of suspected child abuse.~~
- ~~(28) — Section 13(a)(14), (19), (30) and (37) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)(14), (19), (30) and (37)), pertaining to certain violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).~~
- ~~(29) (iv) Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.~~
- ~~(30) — Section 8 of the Pharmacy Act (63 P.S. § 390-8), pertaining to violations of the Pharmacy Act (63 P.S. §§ 390-1—390.13).~~

- ~~(31)~~ (v) Section 701 of the Chiropractic **PRACTICE** Act (63 P.S. § 625.701).
- ~~(32)~~ (vi) Section 702 of the Chiropractic **PRACTICE** Act (63 P.S. § 625.702), pertaining to criminal offenses under the Chiropractic Practice Act (63 P.S. §§ 625.101—625.1106).
- ~~(33)~~—Section 1102 of the Workers’ Compensation Act (77 P.S. § 1039.2), pertaining to insurance fraud under the Workers’ Compensation Act (77 P.S. §§ 1—2710).
- ~~(34)~~ (vii) 18 U.S.C.A. § 1035 (relating to false statements relating to health care matters).
- ~~(35)~~—18 U.S.C.A. § 1341 (relating to frauds and swindles), pertaining to mail fraud.
- ~~(36)~~ (viii) 18 U.S.C.A. § 1347 (relating to health care fraud).
- ~~(37)~~—26 U.S.C.A. § 7206 (relating to fraud and false statements), pertaining to crimes under the Internal Revenue Code (26 U.S.C.A. §§ 1—1400.2).
- ~~(38)~~ (ix) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)—(37)~~ **SUBPARAGRAPHS (i)—(viii)**.
- ~~(39)~~ (x) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.
- ~~(40)~~ (xi) An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S**

**DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING  
THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.429. Schedule of criminal convictions – State Board of Cosmetology.**

(a) A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Cosmetology (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(c)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 2702 (relating to aggravated assault).~~

~~(2) — 18 Pa.C.S. § 2705 (relating to recklessly endangering another person).~~

~~(3) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(4) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(5) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid or delivered by mistake).~~

~~(6) — 18 Pa.C.S. § 3926 (relating to theft of services).~~

~~(7) — 18 Pa.C.S. § 4101 (relating to forgery).~~

~~(8) — 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~

- ~~(9) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(10) — 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~
- ~~(11) — 18 Pa.C.S. § 4112 (relating to receiving deposits in a failing financial institution).~~
- ~~(12) — 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions).~~
- ~~(13) — 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(14) — 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~
- ~~(15) — 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(16) (i)~~ 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).
- ~~(17) (ii)~~ Criminal attempt, criminal conspiracy or criminal solicitation to commit ~~any of the offenses listed in paragraphs (1)–(16)~~ **THE OFFENSE LISTED IN SUBPARAGRAPH (i).**
- ~~(18) (iii)~~ An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.
- ~~(19) (iv)~~ An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A**

**SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.430. Schedule of criminal convictions – State Board of Crane Operators.**

(a) A conviction of any of the criminal offenses in ~~subsections (b), (e) and (d)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Crane Operators (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(e)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(d)~~ ~~The following additional criminal offenses that have been deemed by the Board as directly related to the crane operating profession:~~

~~(1) — 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death).~~

~~(2) — 18 Pa.C.S. § 3313 (relating to illegal dumping of methamphetamine waste).~~

~~(3) — 18 Pa.C.S. § 3928 (relating to unauthorized use of automobiles and other vehicles).~~

~~(4) — 18 Pa.C.S. § 3935.1 (relating to theft of secondary metal).~~

~~(5) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~

~~(6) — 18 Pa.C.S. § 7508.2 (relating to operation of a methamphetamine laboratory).~~

~~(7) — Section 13(a)(1), (12), (14), (16), (30), and (37) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)(1), (12), (14), (16), (30) and (37)), pertaining to certain violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101 — 780-144).~~

- ~~(8) — 75 Pa.C.S. § 3732 (relating to homicide by vehicle).~~
- ~~(9) — 75 Pa.C.S. § 3732.1 (relating to aggravated assault by vehicle).~~
- ~~(10) — 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).~~
- ~~(11) — 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under influence).~~
- ~~(12) — 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).~~
- ~~(13) — 75 Pa.C.S. § 3808 (relating to illegally operating a motor vehicle not equipped with ignition interlock).~~
- ~~(14) — 75 Pa.C.S. § 3809 (relating to restrictions on alcoholic beverages).~~
- ~~(15) — Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in paragraphs (1) — (14).~~
- ~~(16) — An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.~~
- ~~(17) — An equivalent crime in another jurisdiction.~~

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S**

**DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(c).**

**§ 43b.431. Schedule of criminal convictions – State Board of Dentistry.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Dentistry (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (e), (d) and (c)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL'S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL'S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~

~~(2) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing victim of human trafficking.~~

- ~~(3) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~
- ~~(4) — 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(5) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(6) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(7) — 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(8) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(9) — 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(10)~~ **(i)** 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).
- ~~(11) — 18 Pa.C.S. § 7611 (relating to unlawful use of computer and other computer crimes).~~
- ~~(12) — 18 Pa.C.S. § 7615 (relating to computer trespass)~~
- (ii) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS).**
- (iii) 18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**
- ~~(13)~~ **(iv)** 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report a case of suspected child abuse.
- ~~(14) — 23 Pa.C.S. § 6346 (relating to cooperation of other agencies), pertaining to willful failure to cooperate with an investigation of suspected child abuse.~~
- ~~(15)~~ **(v)** Section 13(a)**(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (32)** and (33), **(35), (36) AND (37)** of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)**(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (32)** and (33), **(35), (36) AND (37)**), regarding prohibited acts and penalties,

pertaining to certain violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

~~(16)~~ (vi) Section 1407 of the Human Services Code (62 P.S. § 1407), regarding provider prohibited acts, criminal penalties and civil remedies, pertaining to Medicaid fraud.

~~(17)~~ (vii) Section 10 of the Dental Law (63 P.S. § 129), regarding penalties for unlawful practice.

~~(18)~~ (viii) Section 8 of the Pharmacy Act (63 P.S. § 390-8) regarding unlawful acts, pertaining to violations of the Pharmacy Act (63 P.S. §§ 390-1—390-13).

~~(19)~~ (ix) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)—(18)~~ **SUBPARAGRAPHS (i)—(viii)**.

~~(20)~~ (x) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(21)~~ (xi) An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.432. Schedule of criminal convictions – State Registration Board for Professional Engineers, Land Surveyors and Geologists.**

(a) A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(c)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(2) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(3) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~

~~(4) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~

~~(5) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~

~~(6) — 18 Pa.C.S. § 3926 (relating to theft of services).~~

~~(7) — 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~

~~(8)~~ (i) 18 Pa.C.S. § 4101 (relating to forgery).

~~(9)~~ (ii) 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).

~~(10)~~ (iii) 18 Pa.C.S. § 4104(a) (relating to tampering with records or identification),

**WHEN GRADED AS A MISDEMEANOR.**

~~(11)~~—18 Pa.C.S. § 4105 (relating to bad checks), when graded as a felony.

~~(12)~~—18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).

~~(13)~~—18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).

~~(14)~~—18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).

~~(15)~~—18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).

~~(16)~~—18 Pa.C.S. § 4117 (relating to insurance fraud).

~~(17)~~—18 Pa.C.S. § 4120 (relating to identity theft).

~~(18)~~—18 Pa.C.S. § 4121 (relating to possession and use of unlawful devices).

~~(19)~~ (iv) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).

~~(20)~~ (v) Section 8 of the Home Improvement Consumer Protection Act (73 P.S. § 517.8), regarding home improvement fraud.

~~(21)~~ (vi) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)–(20) SUBPARAGRAPHS (i)–(v)**.

~~(22)~~ (vii) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(23)~~ (viii) An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.433. Schedule of criminal convictions – State Board of Funeral Directors.**

**(a)** A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Funeral Directors (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(c)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the profession of funeral directing, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

- ~~(2) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~
- ~~(3) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- ~~(4) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~
- ~~(5) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~
- ~~(6) (i) 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~
- ~~(7) — 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(8) — 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).~~
- ~~(9) (ii) 18 Pa.C.S. § 4104(a) (relating to tampering with records or identification),~~**WHEN GRADED AS A MISDEMEANOR.**
- ~~(10) — 18 Pa.C.S. § 4105 (relating to bad checks), when graded as a felony.~~
- ~~(11) — 18 Pa.C.S. § 4106 (relating to access device fraud), when graded as a felony.~~
- ~~(12) (iii) 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(13) — 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~
- ~~(14) — 18 Pa.C.S. § 4112 (relating to receiving deposits in a failing financial institution).~~
- ~~(15) (iv) 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions).~~
- ~~(16) — 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(17) — 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~
- ~~(18) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~

- ~~(19) — 18 Pa.C.S. § 4120 (relating to identity theft).~~
  - ~~(20) — 18 Pa.C.S. § 4701 (relating to bribery in official and political matters).~~
  - ~~(21) — 18 Pa.C.S. § 4702 (relating to threats and other improper influence in official and political matters).~~
  - ~~(22) — 18 Pa.C.S. § 4703 (relating to retaliation for past official action).~~
  - ~~(23) — 18 Pa.C.S. § 4902 (relating to perjury).~~
  - ~~(24) — 18 Pa.C.S. § 4903 (relating to false swearing).~~
  - ~~(25) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
  - ~~(26) (v)~~ 18 Pa.C.S. § 4910 (relating to tampering with or fabricating physical evidence).
  - ~~(27) (vi)~~ 18 Pa.C.S. § 4911 (relating to tampering with public records or information).
  - ~~(28) (vii)~~ 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).
  - ~~(29) — 18 Pa.C.S. § 5101 (relating to obstructing administration of law or other governmental function).~~
  - ~~(30) (viii)~~ 18 Pa.C.S. § 5510 (relating to abuse of corpse).
  - ~~(31) — 18 Pa.C.S. § 7308 (relating to unlawful advertising of insurance business).~~
  - ~~(32) (ix)~~ 18 Pa.C.S. § 7310 (relating to furnishing insurance as inducement for purchases).
  - ~~(33) (x)~~ Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in paragraphs (1) — ~~(32)~~ **SUBPARAGRAPHS (i) — (ix)**.
  - ~~(34) (xi)~~ An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.
  - ~~(35) (xii)~~ An equivalent crime in another jurisdiction.
- (b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO**

**THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.434. Schedule of criminal convictions – State Board of Landscape Architects.**

(a) A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Landscape Architects (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(c)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the landscape architect profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(2) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

- ~~(3) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- ~~(4) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~
- ~~(5) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~
- ~~(6) — 18 Pa.C.S. § 3926 (relating to theft of services).~~
- ~~(7) — 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~
- ~~(8) (i) 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(9) — 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).~~
- ~~(10) (ii) 18 Pa.C.S. § 4104(a) (relating to tampering with records or identification), **WHEN GRADED AS A MISDEMEANOR.**~~
- ~~(11) — 18 Pa.C.S. § 4105 (relating to bad checks), when graded as a felony.~~
- ~~(12) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(13) — 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~
- ~~(14) — 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(15) — 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~
- ~~(16) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(17) — 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(18) — 18 Pa.C.S. § 4121 (relating to possession and use of unlawful devices).~~
- ~~(19) (iii) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).~~

~~(20)~~—Section 8 of the Home Improvement Consumer Protection Act (~~73 P.S. § 517.8~~),  
regarding home improvement fraud.

~~(21)~~ (iv) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of  
the offenses listed in paragraphs ~~(1)–(20)~~ SUBPARAGRAPHS ~~(i)–(iii)~~.

~~(22)~~ (v) An equivalent crime under the laws of this Commonwealth in effect at the time of  
the commission of that offense.

~~(23)~~ (vi) An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.435. Schedule of criminal convictions – State Board of Massage Therapy.**

(a) A conviction of any of the criminal offenses in ~~subsections (b), (c) and (d)~~  
**PARAGRAPHS (1), (2) and (3)** may constitute grounds to refuse to issue, suspend or revoke a  
license, certificate, registration or permit issued by the State Board of Massage Therapy (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in  
accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(e)~~ (2) A drug trafficking offense in accordance with § 43b.404(d).

~~(d)~~ (3) The following additional criminal offenses that have been deemed by the Board as directly related to the massage therapy profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

- (1) ~~18 Pa.C.S. § 2705 (relating to recklessly endangering another person).~~
- ~~(2)~~ (i) 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).
- ~~(3)~~ (ii) 18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).
- ~~(4)~~ ~~18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).~~
- ~~(5)~~ ~~Any of the offenses enumerated in 18 Pa.C.S. Ch. 30 (relating to human trafficking) if the offense involved sexual servitude, including any of the following:~~
  - ~~(i)~~ ~~18 Pa.C.S. § 3011 (relating to trafficking in individuals).~~
  - ~~(ii)~~ ~~18 Pa.C.S. § 3012 (relating to involuntary servitude).~~
  - ~~(iii)~~ ~~18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual servitude).~~
  - ~~(iv)~~ ~~18 Pa.C.S. § 3014 (relating to unlawful conduct regarding documents).~~
  - ~~(v)~~ ~~18 Pa.C.S. § 3015 (relating to nonpayment of wages).~~
- ~~(6)~~ ~~18 Pa.C.S. § 3011(a)(3) and (4), pertaining to labor servitude.~~
- ~~(7)~~ ~~18 Pa.C.S. § 3012(a), pertaining to labor servitude.~~
- ~~(8)~~ ~~18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employment of a victim of human trafficking.~~
- ~~(9)~~ ~~Any of the offenses enumerated in 18 Pa.C.S. Ch. 31 (relating to sexual offenses),~~

including the following:

- (i) ~~(iii)~~ 18 Pa.C.S. § 3121 (relating to rape).
- (ii) ~~18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).~~
- (iii) ~~(iv)~~ 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- (iv) ~~(v)~~ 18 Pa.C.S. § 3124.1 (relating to sexual assault).
- (v) ~~18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).~~
- (vi) ~~18 Pa.C.S. § 3124.3 (relating to sexual assault by sports official, volunteer or employee of nonprofit association).~~
- (vii) ~~(vi)~~ 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
- (viii) ~~(vii)~~ 18 Pa.C.S. § 3126 (relating to indecent assault).
- (ix) ~~18 Pa.C.S. § 3127 (relating to indecent exposure).~~
- (x) ~~18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).~~
- (xi) ~~18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).~~
- (xii) ~~18 Pa.C.S. § 3131 (relating to unlawful dissemination of intimate image).~~
- (xiii) ~~18 Pa.C.S. § 3132 (relating to female mutilation).~~
- (xiv) ~~18 Pa.C.S. § 3133 (relating to sexual extortion).~~
- (10) ~~18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- (11) ~~18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- (12) ~~18 Pa.C.S. § 4302 (relating to incest).~~
- (13) ~~18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~
- (14) ~~18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~
- (15) ~~18 Pa.C.S. § 5901 (relating to open lewdness), if the offense involved a minor under 18 years of age.~~

~~(16)~~ **(viii)** 18 Pa.C.S. § 5902(b) or (b.1) (relating to prostitution and related offenses),  
**PERTAINING TO PROMOTING PROSTITUTION AND PROMOTING  
PROSTITUTION OF A MINOR.**

~~(17)~~ **(ix)** 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances), if the offense involved a minor under 18 years of age.

~~(18)~~ **(x)** 18 Pa.C.S. § 6301(a)(1)(i) (relating to corruption of minors), if the offense involved sexual contact with the victim.

~~(19)~~—18 Pa.C.S. § 6301(a)(1)(ii).

~~(20)~~—18 Pa.C.S. § 6312 (relating to sexual abuse of children).

~~(21)~~—18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

~~(22)~~—18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

~~(23)~~—18 Pa.C.S. § 7507.1 (relating to invasion of privacy).

~~(24)~~ **(xi)** 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.

~~(25)~~ **(xii)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)–(24) SUBPARAGRAPHS (i)–(xi)**.

~~(26)~~ **(xiii)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(27)~~ **(xiv)** An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN**

**SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.436. Schedule of criminal convictions – State Board of Medicine.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Medicine (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (c), (d) and (e)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(c)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH §**

**43b.404(a)(2)(i):**

- ~~(1) — 18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~
- ~~(2) (i) 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).~~
- ~~(3) (ii) 18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).~~
- ~~(4) — 18 Pa.C.S. § 2905 (relating to interference with custody of committed person).~~
- ~~(5) — 18 Pa.C.S. § 3011 (relating to trafficking in individuals).~~
- ~~(6) — 18 Pa.C.S. § 3012 (relating to involuntary servitude).~~
- ~~(7) — 18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual servitude).~~
- ~~(8) — 18 Pa.C.S. § 3014 (relating to unlawful conduct regarding documents).~~
- ~~(9) — 18 Pa.C.S. § 3015 (relating to nonpayment of wages).~~
- ~~(10) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~
- ~~(11) — 18 Pa.C.S. § 3211 (relating to abortion on unborn child of 24 or more weeks gestational age).~~
- ~~(12) (iii) 18 Pa.C.S. § 3212 (relating to infanticide).~~
- ~~(13) — 18 Pa.C.S. § 3213 (relating to prohibited acts) under the Abortion Control Act.~~
- ~~(14) (iv) 18 Pa.C.S. § 3216 (relating to fetal experimentation).~~
- ~~(15) (v) 18 Pa.C.S. § 4303 (relating to concealing death of child).~~
- ~~(16) — 18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~
- ~~(17) (vi) 18 Pa.C.S. § 4305 (relating to dealing in infant children).~~
- ~~(18) — 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(19) (vii) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or a holder of a professional or occupational license).~~

~~(20)~~ **(viii)** 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).

~~(21)~~ **(ix)** 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.

~~(22)~~ **(x)** 23 Pa.C.S. § 6346 (relating to cooperation of other agencies), pertaining to willful failure to cooperate in an investigation of suspected child abuse.

~~(23)~~ **(xi)** Section 13(a)~~(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (32) and (33)~~ **(35), (36) AND (37)** of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)~~(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (32) and (33)~~ **(35), (36) AND (37)**), pertaining to certain violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

~~(24)~~ **(xii)** Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.

**(xiii) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS).**

**(xiv) 18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**

~~(25)~~ **(xv)** Section 11(a) or (b) of the Osteopathic Medical Practice Act (63 P.S. § 271.11(a) or (b)), pertaining to criminal offenses under the Osteopathic Medical Practice Act (63 P.S. §§ 271.1—271.18).

~~(26)~~ **(xvi)** Section 8 of the Pharmacy Act (63 P.S. § 390-8), pertaining to criminal offenses under the Pharmacy Act (63 P.S. §§ 390-1—390-13).

~~(27)~~ **(xvii)** Section 39(a) of the Medical Practice Act of 1985 (63 P.S. § 422.39(a)), pertaining to criminal offenses under the Medical Practice Act of 1985 (63 P.S. §§ 422.1—

422.53).

~~(28)~~ **(xviii)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)–(27)~~ **SUBPARAGRAPHS (i)–(xvii)**.

~~(29)~~ **(xix)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(30)~~ **(xx)** An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.437. Schedule of criminal convictions – Navigation Commission for the Delaware River and its Navigable Tributaries.**

**(a)** A conviction of any of the ~~following~~ criminal offenses **SET FORTH IN PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Navigation Commission of the Delaware River and its Navigable Tributaries (Navigation Commission) ~~and have been deemed by the Navigation Commission as directly related to the piloting profession.~~

(1) Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence),  
**IN ACCORDANCE WITH § 43b.404(c).**

**(2) THE FOLLOWING ADDITIONAL CRIMINAL OFFENSES THAT HAVE BEEN DEEMED BY THE NAVIGATION COMMISSION AS DIRECTLY RELATED TO THE PILOTING PROFESSION, WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(2) — 18 Pa.C.S. § 2701 (relating to simple assault).~~

~~(3) — 18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).~~

~~(4) — 18 Pa.C.S. § 3313 (relating to illegal dumping of methamphetamine waste).~~

~~(5) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition), when graded as a felony.~~

~~(6) — 18 Pa.C.S. § 3922 (relating to theft by deception), when graded as a felony.~~

~~(7) — 18 Pa.C.S. § 3923 (relating to theft by extortion), when graded as a felony.~~

~~(8) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid or delivered by mistake), when graded as a felony.~~

~~(9) — 18 Pa.C.S. § 3925 (relating to receiving stolen property), when graded as a felony.~~

~~(10) — 18 Pa.C.S. § 3926 (relating to theft of services), when graded as a felony.~~

~~(11) — 18 Pa.C.S. § 3928 (relating to unauthorized use of automobiles and other vehicles).~~

~~(12) — 18 Pa.C.S. § 3935.1 (relating to theft of secondary metal).~~

- ~~(13) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(14) — 18 Pa.C.S. § 4120 (relating to identity theft), when graded as a felony.~~
- ~~(15) — 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory).~~
- ~~(16) — Sections (1), (12), (16), (30) and (37) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)(1), (12), (16), (30) and (37)), pertaining to certain violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101 — 780-144).~~
- ~~(17) — 75 Pa.C.S. § 3732 (relating to homicide by vehicle).~~
- ~~(18) — 75 Pa.C.S. § 3732.1 (relating to aggravated assault by vehicle).~~
- ~~(19) — 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).~~
- ~~(20) — 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).~~
- ~~(21) — 75 Pa.C.S. § 3736 (relating to reckless driving).~~
- ~~(22) — 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).~~
- ~~(23) (i) 75 Pa.C.S. § 3742.1 (relating to accidents involving death or personal injury while not properly licensed).~~
- ~~(24) — 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).~~
- ~~(25) — 75 Pa.C.S. § 3808 (relating to illegally operating a motor vehicle not equipped with ignition interlock).~~
- ~~(26) — 75 Pa.C.S. § 3809 (relating to restriction on alcoholic beverages).~~
- ~~(27) (ii) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in paragraphs (1) — (26) **THE OFFENSE LISTED IN**~~

**SUBPARAGRAPH (i).**

~~(28)~~ **(iii)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(29)~~ **(iv)** An equivalent crime in another jurisdiction.

**(b) THE COMMISSION RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL'S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE COMMISSION'S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.438. Schedule of criminal convictions – State Board of Nursing.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Nursing (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions) ~~and have been deemed by the Board as directly related to the professions regulated by the Board.~~

(b) A conviction of any of the criminal offenses set forth in ~~subsections (c), (d) and (e)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board ~~and have been deemed by the Board~~

~~as directly related to the professions regulated by the Board.~~

~~(e) (1)~~ Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d) (2)~~ A drug trafficking offense in accordance with § 43b.404(d).

~~(e) (3)~~ The following additional ~~directly related~~ criminal offenses **THAT HAVE BEEN DEEMED BY THE BOARD AS DIRECTLY RELATED TO THE PROFESSIONS REGULATED BY THE BOARD, WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL'S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL'S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 2501 (relating to criminal homicide).~~

~~(2) — 18 Pa.C.S. § 2504 (relating to involuntary manslaughter).~~

~~(3) (i)~~ 18 Pa.C.S. § 2505 (relating to causing or aiding suicide).

~~(4) — 18 Pa.C.S. § 2603 (relating to criminal homicide of unborn child).~~

~~(5) (ii)~~ 18 Pa.C.S. § 2605 (relating to voluntary manslaughter of unborn child).

~~(6) — 18 Pa.C.S. § 2701 (relating to simple assault).~~

~~(7) — 18 Pa.C.S. § 2706(a)(1) (relating to terroristic threats), pertaining to communicating a threat to commit any crime of violence with intent to terrorize another.~~

~~(8) — 18 Pa.C.S. § 2707.1 (relating to discharge of a firearm into an occupied structure).~~

~~(9) — 18 Pa.C.S. § 2709 (relating to harassment).~~

~~(10) — 18 Pa.C.S. § 2709.1 (relating to stalking).~~

- (11) **(iii)** 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).
- (12) **(iv)** 18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).
- ~~(13) 18 Pa.C.S. § 2902 (relating to unlawful restraint).~~
- ~~(14) 18 Pa.C.S. § 2909 (relating to concealment of whereabouts of a child).~~
- ~~(15) 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking).~~
- ~~(16) 18 Pa.C.S. § 3211 (relating to abortion of unborn child of 24 or more weeks gestational age).~~
- (17) **(v)** 18 Pa.C.S. § 3212 (relating to infanticide).
- (18) **(vi)** 18 Pa.C.S. § 3216 (relating to fetal experimentation).
- ~~(19) 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~
- ~~(20) 18 Pa.C.S. § 3922 (relating to theft by deception).~~
- ~~(21) 18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- ~~(22) 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~
- ~~(23) 18 Pa.C.S. § 3929 (relating to retail theft).~~
- ~~(24) 18 Pa.C.S. § 3929.3 (relating to organized retail theft).~~
- ~~(25) 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(26) 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~
- ~~(27) 18 Pa.C.S. § 4106 (relating to access device fraud).~~
- ~~(28) 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(29) 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(30) 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(31) 18 Pa.C.S. § 4121 (relating to possession and use of unlawful devices).~~

- ~~(32) — 18 Pa.C.S. § 4303 (relating to concealing death of child).~~
- ~~(33) — 18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~
- ~~(34) (vii) 18 Pa.C.S. § 4305 (relating to dealing in infant children).~~
- ~~(35) — 18 Pa.C.S. § 4902 (relating to perjury).~~
- ~~(36) — 18 Pa.C.S. § 4903 (relating to false swearing).~~
- ~~(37) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(38) — 18 Pa.C.S. § 4905 (relating to false alarms to agency of public safety).~~
- ~~(39) — 18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).~~
- ~~(40) (viii) 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse).~~
- ~~(41) — 18 Pa.C.S. § 4909 (relating to witness or informant taking bribe).~~
- ~~(42) — 18 Pa.C.S. § 4910 (relating to tampering with or fabricating physical evidence).~~
- ~~(43) — 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(44) (ix) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or a holder of a professional or occupational license).~~
- ~~(45) — 18 Pa.C.S. § 4914 (relating to false identification to law enforcement authorities).~~
- ~~(46) — 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~
- ~~(47) — 18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).~~
- ~~(48) — 18 Pa.C.S. § 4953.1 (relating to retaliation against prosecutor or judicial official).~~
- ~~(49) (x) 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).~~
- ~~(50) — 18 Pa.C.S. § 5105(a)(3) or (5) (relating to hindering apprehension or prosecution).~~
- ~~(51) (xi) 18 Pa.C.S. § 5106 (relating to failure to report injuries by firearm or criminal act).~~
- ~~(52) (xii) 18 Pa.C.S. § 5112 (relating to obstructing emergency services).~~

- ~~(53) — 18 Pa.C.S. § 5123(a), (a.2) or (c) (relating to contraband).~~
- (54) **(xiii)** 18 Pa.C.S. § 5510 (relating to abuse of corpse).
- ~~(55) — 18 Pa.C.S. § 7313 (relating to buying or exchanging Federal supplemental nutrition assistance program (Snap) benefits).~~
- ~~(56) — 18 Pa.C.S. § 7314 (relating to fraudulent traffic in supplemental nutrition assistance program (Snap) benefits).~~
- (57) **(xiv)** 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory).
- (58) **(xv)** 18 Pa.C.S. § 7509 (relating to furnishing of drug-free urine).
- ~~(59) — 18 Pa.C.S. § 7611 (relating to unlawful use of computer and other computer crimes).~~
- ~~(60) — 18 Pa.C.S. § 7613 (relating to computer theft).~~
- ~~(61) — 18 Pa.C.S. § 7615(a)(3) (relating to computer trespass).~~
- (xvi) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS).**
- (xvii) 18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**
- (xviii) 23 Pa.C.S. § 6319 (RELATING TO FAILURE TO REPORT SUSPECTED CHILD ABUSE).**
- ~~(62) (xiv)~~ Section 13(a)~~(1), (2), (5), (6), (12), (13), (14), (16), (17), (19), (21), (25), (26), (27), (28), (30), (31), (32), (33), (35), (36) and (37)~~ of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)~~(1), (2), (5), (6), (12), (13), (14), (16), (17), (19), (21), (25), (26), (27), (28), (30), (31), (32), (33), (35), (36) and (37))~~), pertaining to certain violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-1-1—780-144).

- ~~(63)~~ **(xx)** Section 1302 of the Medical Marijuana Act (35 P.S. § 10231.1302), regarding criminal diversion of medical marijuana.
- ~~(64)~~ **(xxi)** Section 1306 of the Medical Marijuana Act (35 P.S. § 10231.1306), regarding adulteration of medical marijuana).
- ~~(65)~~ **(xxii)** Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.
- ~~(66)~~ **(xxiii)** Section 13(a) of the Professional Nursing Law (63 P.S. § 223(a)), pertaining to violations of the Professional Nursing Law (63 P.S. §§ 211—225.5).
- ~~(67)~~ **(xxiv)** Section 8(13) and (15) of the Pharmacy Act (63 P.S. § 390-8(13) and (15)), pertaining to procuring a drug by fraud in violation of the Pharmacy Act (63 P.S. §§ 390-1—390-13).
- ~~(68)~~ **(xxv)** Section 15 of the Practical Nurse Law (63 P.S. § 665), pertaining to violations of the Practical Nurse Law (63 P.S. §§ 651—667.8).
- ~~(69)~~—75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
- ~~(70)~~—75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
- ~~(71)~~—75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substances).
- ~~(72)~~ **(xxvi)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)—(71) SUBPARAGRAPHS (i)—(xxv)**.
- ~~(73)~~ **(xxvii)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.
- ~~(74)~~ **(xxviii)** An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.439. Schedule of criminal convictions – State Board of Examiners of Nursing Home Administrators.**

**(a)** A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Examiners of Nursing Home Administrators (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(c)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the profession of nursing home administration, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A**

**SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE**

**WITH § 43b.404(a)(2)(i):**

- ~~(1) — 18 Pa.C.S. § 907 (relating to possessing instruments of crime).~~
- ~~(2) — 18 Pa.C.S. § 908 (relating to prohibited offensive weapons).~~
- ~~(3) — 18 Pa.C.S. § 908.1 (relating to use or possession of electric or electronic incapacitation device).~~
- ~~(4) — 18 Pa.C.S. § 2501 (relating to criminal homicide).~~
- ~~(5) — 18 Pa.C.S. § 2504 (relating to involuntary manslaughter).~~
- ~~(6) (i) 18 Pa.C.S. § 2505 (relating to causing or aiding suicide).~~
- ~~(7) — 18 Pa.C.S. § 2506 (relating to drug delivery resulting in death).~~
- ~~(8) — 18 Pa.C.S. § 2701 (relating to simple assault).~~
- ~~(9) — 18 Pa.C.S. § 2702 (relating to aggravated assault).~~
- ~~(10) — 18 Pa.C.S. § 2706(a)(1) (relating to terroristic threats).~~
- ~~(11) — 18 Pa.C.S. § 2707.1 (relating to discharge of a firearm into an occupied structure).~~
- ~~(12) — 18 Pa.C.S. § 2709 (relating to harassment).~~
- ~~(13) — 18 Pa.C.S. § 2709.1 (relating to stalking).~~
- ~~(14) — 18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~
- ~~(15) (ii) 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).~~
- ~~(16) (iii) 18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).~~
- ~~(17) — 18 Pa.C.S. § 2718 (relating to strangulation).~~
- ~~(18) — 18 Pa.C.S. § 2901 (relating to kidnapping).~~
- ~~(19) — 18 Pa.C.S. § 2902 (relating to unlawful restraint).~~
- ~~(20) — 18 Pa.C.S. § 2903 (relating to false imprisonment).~~

- ~~(21) — 18 Pa.C.S. § 3011 (relating to trafficking in individuals).~~
- ~~(22) — 18 Pa.C.S. § 3012 (relating to involuntary servitude).~~
- ~~(23) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~
- ~~(24) — 18 Pa.C.S. § 3121 (relating to rape).~~
- ~~(25) — 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).~~
- ~~(26) — 18 Pa.C.S. § 3124.1 (relating to sexual assault).~~
- ~~(27) — 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).~~
- ~~(28) — 18 Pa.C.S. § 3124.3 (sexual assault by sports official, volunteer or employee of nonprofit association).~~
- ~~(29) — 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).~~
- ~~(30) — 18 Pa.C.S. § 3126 (relating to indecent assault).~~
- ~~(31) — 18 Pa.C.S. § 3127 (relating to indecent exposure).~~
- ~~(32) — 18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).~~
- ~~(33) — 18 Pa.C.S. § 3131 (relating to unlawful dissemination of intimate image).~~
- ~~(34) — 18 Pa.C.S. § 3132 (relating to female mutilation).~~
- ~~(35) — 18 Pa.C.S. § 3133 (relating to sexual extortion).~~
- ~~(36) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~
- ~~(37) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~
- ~~(38) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- ~~(39) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~
- ~~(40) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~

- (41) — ~~18 Pa.C.S. § 3926 (relating to theft of services).~~
- (42) — ~~18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~
- (43) — ~~18 Pa.C.S. § 3930 (relating to theft of trade secrets).~~
- (44) — ~~18 Pa.C.S. § 4101 (relating to forgery).~~
- (45) — ~~18 Pa.C.S. § 4105 (relating to bad checks).~~
- (46) — ~~18 Pa.C.S. § 4106 (relating to access device fraud).~~
- (47) — ~~18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institution).~~
- (48) — ~~18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- (49) — ~~18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~
- (50) — ~~18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- (51) — ~~18 Pa.C.S. § 4120 (relating to identity theft).~~
- (52) — ~~18 Pa.C.S. § 4121 (relating to possession and use of unlawful devices).~~
- (53) — ~~18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- (54) — ~~18 Pa.C.S. § 4905 (relating to false alarms to agencies of public safety).~~
- (55) — ~~18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).~~
- (56) — ~~18 Pa.C.S. § 4910 (relating to tampering with or fabricating physical evidence).~~
- (57) (iv) 18 Pa.C.S. § 4911 (relating to tampering with public records or information).
- (58) (v) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or a holder of a professional or occupational license).
- (59) — ~~18 Pa.C.S. § 4914 (relating to false identification to law enforcement authorities).~~
- (60) — ~~18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~

- ~~(61) — 18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).~~
- ~~(62) (vi) 18 Pa.C.S. § 5106 (relating to failure to report injuries by firearm or criminal act).~~
- ~~(63) (vii) 18 Pa.C.S. § 5112 (relating to obstructing emergency services).~~
- ~~(64) — 18 Pa.C.S. § 5123 (relating to contraband).~~
- ~~(65) (viii) 18 Pa.C.S. § 5510 (relating to abuse of corpse).~~
- ~~(66) — 18 Pa.C.S. § 7507.1 (relating to invasion of privacy).~~
- ~~(67) (ix) 18 Pa.C.S. § 7509 (relating to furnishing drug-free urine).~~
- ~~(68) — 18 Pa.C.S. § 7611 (relating to unlawful use of computer and other computer crimes).~~
- ~~(69) — 18 Pa.C.S. § 7613 (relating to computer theft).~~
- ~~(70) — 18 Pa.C.S. § 7615(a)(3) (relating to computer trespass).~~
- ~~(71) — 35 P.S. § 780-113 (relating to prohibited acts; penalties), pertaining to violations of the Controlled Substance, Drug, Device and Cosmetic Act.~~
- (x) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS).**
- (xi) 18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**
- (xii) SECTION 1407 OF THE HUMAN SERVICES CODE (63 P.S. § 1407), PERTAINING TO MEDICAID FRAUD.**
- ~~(72) (xiii) Section 8(13) of the Pharmacy Act (63 P.S. § 390-8(13)), pertaining to procuring a drug by fraud in violation of the Pharmacy Act (63 P.S. §§ 390-1—390-13).~~
- ~~(73) (xiv) Section 11 of the Nursing Home Administrators License Act (63 P.S. § 1111), pertaining to offenses under the Nursing Home Administrators License Act (63 P.S. §§ 1101—1114.2).~~

~~(74)~~ **(xv)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)–(73)~~ **SUBPARAGRAPHS (i)–(xiv)**.

~~(75)~~ **(xvi)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(76)~~ **(xvii)** An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.440. Schedule of criminal convictions – State Board of Occupational Therapy Education and Licensure.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Occupational Therapy Education and Licensure (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (c) and (d)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a

license, certificate, registration or permit issued by the Board.

~~(e)~~ (1) Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ (2) The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board (occupational therapy and occupational therapy assisting), **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 2709.1 (relating to stalking).~~

~~(2) — 18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~

~~(3) (i) 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).~~

~~(4) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~

~~(5) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking).~~

~~(6) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(7) — 18 Pa.C.S. § 3926 (relating to theft of services).~~

~~(8) — 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~

~~(9) — 18 Pa.C.S. § 4101 (relating to forgery).~~

~~(10) — 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~

~~(11) — 18 Pa.C.S. § 4106 (relating to access device fraud).~~

- ~~(12) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(13) — 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~
- ~~(14) — 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(15) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(16) — 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(17) — 18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~
- ~~(18) — 18 Pa.C.S. § 4902 (relating to perjury).~~
- ~~(19) — 18 Pa.C.S. § 4903 (relating to false swearing).~~
- ~~(20) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(21) — 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(22) (ii) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).~~
- ~~(23) — 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~
- ~~(24) — 18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).~~
- ~~(25) — 18 Pa.C.S. § 5101 (relating to obstructing administration of law or other governmental function).~~
- ~~(26) — 18 Pa.C.S. § 5105 (relating to hindering apprehension or prosecution).~~
- ~~(27) — 18 Pa.C.S. § 5111 (relating to dealing in proceeds of unlawful activity).~~
- ~~(28) (iii) 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.~~
- ~~(29) (iv) Section 1407 of the Human Services Code (62 P.S. § 1407), regarding provider prohibited acts, criminal penalties and civil remedies, pertaining to Medicaid fraud.~~

~~(30)~~ (v) Section 16 of the Occupational Therapy Practice Act (63 P.S. § 1516) regarding refusal, suspension or revocation of license; refusal to renew; penalties; injunctive relief, pertaining to misdemeanor violations of the Occupational Therapy Practice Act (63 P.S. §§ 1501—1519).

~~(31)~~ (vi) Section 1102 of the Workers’ Compensation Act (77 P.S. § 1039.2), regarding offenses, pertaining to insurance fraud under the Workers’ Compensation Act (77 P.S. §§ 1—2710).

~~(32)~~ (vii) 18 U.S.C.A. § 1035 (relating to false statements relating to health care matters).

~~(33)~~—18 U.S.C. § 1341 (relating to mail fraud).

~~(34)~~ (viii) 18 U.S.C.A. § 1347 (relating to health care fraud).

~~(35)~~—26 U.S.C. § 7206 (relating to fraud and false statements).

~~(36)~~ (ix) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)—(35)~~ **SUBPARAGRAPHS (i)—(viii)**.

~~(37)~~ (x) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(38)~~ (xi) An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE**

**WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD'S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.441. Schedule of criminal convictions – State Board of Optometry.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Optometry (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (c), (d) and (e)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following criminal offenses that have been deemed by the Board as directly related to the optometry profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL'S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL'S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 2502 (relating to murder).~~

~~(2) — 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).~~

~~(3) — 18 Pa.C.S. § 2506 (relating to drug delivery resulting in death).~~

- (4) — ~~18 Pa.C.S. § 2507 (relating to criminal homicide of a law enforcement officer).~~
- (5) — ~~18 Pa.C.S. § 2604 (relating to murder of unborn child).~~
- (6) — ~~18 Pa.C.S. § 2605 (relating to voluntary manslaughter of unborn child).~~
- (7) — ~~18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child)~~
- (8) — ~~18 Pa.C.S. § 2702 (relating to aggravated assault).~~
- (9) — ~~18 Pa.C.S. § 2702.1 (relating to assault of law enforcement officer).~~
- (10) — ~~18 Pa.C.S. § 2705 (relating to recklessly endangering another person).~~
- (11) — ~~18 Pa.C.S. § 2706 (relating to terroristic threats).~~
- (12) — ~~18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~
- (13) **(i)** ~~18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).~~
- (14) **(ii)** ~~18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).~~
- (15) — ~~18 Pa.C.S. § 2715 (relating to threat to use weapons of mass destruction).~~
- (16) — ~~18 Pa.C.S. § 2717 (relating to terrorism).~~
- (17) — ~~18 Pa.C.S. § 2718 (relating to strangulation).~~
- (18) — ~~18 Pa.C.S. § 2901 (relating to kidnapping).~~
- (19) — ~~18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).~~
- (20) — ~~18 Pa.C.S. § 3011 (relating to trafficking in individuals).~~
- (21) — ~~18 Pa.C.S. § 3012 (relating to involuntary servitude).~~
- (22) — ~~18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual servitude).~~
- (23) — ~~18 Pa.C.S. § 3014 (relating to unlawful conduct regarding documents).~~
- (24) — ~~18 Pa.C.S. § 3016 (relating to obstruction of justice).~~
- (25) — ~~18 Pa.C.S. § 3017 (relating to violation by business entities).~~
- (26) — ~~18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a~~

~~victim of human trafficking.~~

~~(27) — 18 Pa.C.S. § 3121 (relating to rape).~~

~~(28) — 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).~~

~~(29) — 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).~~

~~(30) — 18 Pa.C.S. § 3124.1 (relating to sexual assault).~~

~~(31) — 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).~~

~~(32) — 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).~~

~~(33) — 18 Pa.C.S. § 3126 (relating to indecent assault).~~

~~(34) — 18 Pa.C.S. § 3127 (relating to indecent exposure).~~

~~(35) — 18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).~~

~~(36) — 18 Pa.C.S. § 3131 (relating to unlawful dissemination of intimate image).~~

~~(37) — 18 Pa.C.S. § 3133 (relating to sexual extortion).~~

~~(38) — 18 Pa.C.S. § 3301 (relating to arson and related offenses).~~

~~(39) — 18 Pa.C.S. § 3502 (relating to burglary).~~

~~(40) — 18 Pa.C.S. § 3701 (relating to robbery).~~

~~(41) — 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).~~

~~(42) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(43) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(44) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~

~~(45) — 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~

~~(46) — 18 Pa.C.S. § 4101 (relating to forgery).~~

~~(47) — 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~

- ~~(48) — 18 Pa.C.S. § 4106 (relating to access device fraud).~~
- ~~(49) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(50) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(51) — 18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~
- ~~(52) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(53) — 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~
- ~~(54) — 18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).~~
- ~~(55) — 18 Pa.C.S. § 5901 (relating to open lewdness).~~
- ~~(56) — 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).~~
- ~~(57) — 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances).~~
- ~~(58) — 18 Pa.C.S. § 6301 (relating to corruption of minors).~~
- ~~(59) — 18 Pa.C.S. § 6312 (relating to sexual abuse of children).~~
- ~~(60) — 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).~~
- ~~(61) — 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).~~
- ~~(62) — 18 Pa.C.S. § 7507.1 (relating to invasion of privacy).~~
- ~~(63) (iii)~~ 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.
- ~~(64) (iv)~~ Section 13(a)(~~2~~), (~~5~~), (~~6~~), (12), (13), (14), (~~17~~), (21), (~~25~~), (~~26~~), (~~27~~), (28), (~~30~~), (~~32~~) and (~~33~~) (~~35~~), (~~36~~) and (~~37~~) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)(~~2~~), (~~5~~), (~~6~~), (12), (13), (14), (~~17~~), (21), (~~25~~), (~~26~~), (~~27~~), (28), (~~30~~), (~~32~~) and (~~33~~) (~~35~~), (~~36~~) and (~~37~~)), pertaining to certain violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

~~(65)~~ (v) Section 8(13) of the Pharmacy Act (63 P.S. § 390-8(13)), pertaining to procuring a drug by fraud in violation of the Pharmacy Act (63 P.S. §§ 390-1—390-13).

~~(66)~~ (vi) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)—(67) SUBPARAGRAPHS (i)—(v)**.

~~(67)~~ (vii) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(68)~~ (viii) An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.442. Schedule of criminal convictions – State Board of Osteopathic Medicine.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Osteopathic Medicine (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in **subsections (e), (d) and (c)**

**PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL'S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL'S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~

~~(2) (i) 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).~~

~~(3) (ii) 18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).~~

~~(4) — 18 Pa.C.S. § 2905 (relating to interference with custody of committed person).~~

~~(5) — 18 Pa.C.S. § 3011 (relating to trafficking in individuals).~~

~~(6) — 18 Pa.C.S. § 3012 (relating to involuntary servitude).~~

~~(7) — 18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual servitude).~~

~~(8) — 18 Pa.C.S. § 3014 (relating to unlawful conduct regarding documents).~~

~~(9) — 18 Pa.C.S. § 3015 (relating to nonpayment of wages).~~

~~(10) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~

- ~~(11)~~ 18 Pa.C.S. § 3211 (relating to abortion on unborn child of 24 or more weeks gestational age).
- ~~(12)~~ **(iii)** 18 Pa.C.S. § 3212 (relating to infanticide).
- ~~(13)~~ 18 Pa.C.S. § 3213 (relating to prohibited acts) under the Abortion Control Act.
- ~~(14)~~ **(iv)** 18 Pa.C.S. § 3216 (relating to fetal experimentation).
- ~~(15)~~ **(v)** 18 Pa.C.S. § 4303 (relating to concealing death of child).
- ~~(16)~~ 18 Pa.C.S. § 4304 (relating to endangering welfare of children).
- ~~(17)~~ **(vi)** 18 Pa.C.S. § 4305 (relating to dealing in infant children).
- ~~(18)~~ 18 Pa.C.S. § 4911 (relating to tampering with public records or information).
- ~~(19)~~ **(vii)** 18 Pa.C.S. § 4913 (relating to impersonating a notary public or a holder of a professional or occupational license).
- ~~(20)~~ **(viii)** 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).
- ~~(21)~~ **(ix)** 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.
- ~~(22)~~ **(x)** 23 Pa.C.S. § 6346 (relating to cooperation of other agencies), pertaining to willful failure to cooperate in an investigation of suspected child abuse.
- ~~(23)~~ **(xi)** Section 13(a)**(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (32), and (33) (35), (36) AND (37)** of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)**(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (32) and (33) (35, (36) AND (37))**), pertaining to certain violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).
- ~~(24)~~ **(xii)** Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to

Medicaid fraud.

**(xiii) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS.**

**(xiv) 18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**

~~(25)~~ **(xv)** Section 11(a) or (b) of the Osteopathic Medical Practice Act (63 P.S. § 271.11(a) or (b)), pertaining to criminal offenses under the Osteopathic Medical Practice Act (63 P.S. §§ 271.1—271.18).

~~(26)~~ **(xvi)** Section 8 of the Pharmacy Act (63 P.S. § 390-8), pertaining to criminal offenses under the Pharmacy Act (63 P.S. §§ 390-1—390-13).

~~(27)~~ **(xvii)** Section 39(a) of the Medical Practice Act of 1985 (63 P.S. § 422.39(a)), pertaining to criminal offenses under the Medical Practice Act of 1985 (63 P.S. §§ 422.1—422.53).

~~(28)~~ **(xviii)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)—(27) SUBPARAGRAPHS (i)—(xvii).**

~~(29)~~ **(xix)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(30)~~ **(xx)** An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR**

**A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.443. Schedule of criminal convictions – State Board of Pharmacy.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Pharmacy (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (e), (d) and (e)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly related to the pharmacy profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a~~

~~victim of human trafficking.~~

- ~~(2) (i) 18 Pa.C.S. § 3313 (relating to illegal dumping of methamphetamine waste).~~
- ~~(3) — 18 Pa.C.S. § 3502 (relating to burglary).~~
- ~~(4) — 18 Pa.C.S. § 3701 (relating to robbery).~~
- ~~(5) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~
- ~~(6) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~
- ~~(7) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~
- ~~(8) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~
- ~~(9) — 18 Pa.C.S. § 3929 (relating to retail theft) when graded as a felony.~~
- ~~(10) (ii) 18 Pa.C.S. § 3929.3 (relating to organized retail theft).~~
- ~~(11) — 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(12) — 18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~
- ~~(13) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(14) — 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~
- ~~(15) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(16) — 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(17) — 18 Pa.C.S. § 4902 (relating to perjury).~~
- ~~(18) — 18 Pa.C.S. § 4903 (relating to false swearing).~~
- ~~(19) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(20) — 18 Pa.C.S. § 4910 (relating to tampering with or fabricating physical evidence).~~
- ~~(21) — 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(22) (iii) 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a~~

professional or occupational license).

~~(23)~~ **(iv)** 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.

~~(24)~~ **(v)** Section 13**(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36) AND (37)** of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113**(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36) AND (37)**), pertaining to **CERTAIN** violations of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

~~(25)~~ **(vi)** Section 1302 of the Medical Marijuana Act (35 P.S. § 10231.1302), regarding criminal diversion of medical marijuana.

~~(26)~~ **(vii)** Section 1306 of the Medical Marijuana Act (35 P.S. § 10231.1306), regarding adulteration of medical marijuana.

~~(27)~~ **(viii)** Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.

**(ix) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS).**

**(x) 18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**

~~(28)~~ **(xi)** Section 8 of the Pharmacy Act (63 P.S. § 390-8), pertaining to criminal offenses under the Pharmacy Act (63 P.S. §§ 390-1—390-13).

~~(29)~~ **(xii)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)—(28) SUBPARAGRAPHS (i)—(xi)**.

~~(30)~~ **(xiii)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(31)~~ (xiv) An equivalent crime in another jurisdiction.

(c) **THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.444. Schedule of criminal convictions – State Board of Physical Therapy.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Physical Therapy (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (c), (d) and (e)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly

related to the physical therapy profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

- (1) — ~~18 Pa.C.S. § 2705 (relating to recklessly endangering another person).~~
- (2) (i) 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).
- (3) (ii) 18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).
- (4) — ~~18 Pa.C.S. § 3011(a)(3) and (4) (relating to trafficking in individuals).~~
- (5) — ~~18 Pa.C.S. § 3012(a) (relating to labor servitude).~~
- (6) — ~~18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~
- (7) — ~~18 Pa.C.S. § 3133 (relating to sexual extortion).~~
- (8) — ~~18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~
- (9) — ~~18 Pa.C.S. § 3922 (relating to theft by deception).~~
- (10) — ~~18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- (11) — ~~18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~
- (12) — ~~18 Pa.C.S. § 4101 (relating to forgery).~~
- (13) — ~~18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~
- (14) — ~~18 Pa.C.S. § 4106 (relating to access device fraud).~~
- (15) — ~~18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~

~~(16)~~—18 Pa.C.S. § 4117 (relating to insurance fraud).

~~(17)~~—18 Pa.C.S. § 4304 (relating to endangering the welfare of children).

~~(18)~~—18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities)

~~(19)~~—18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).

~~(20)~~ **(iii)** 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.

~~(21)~~ **(iv)** Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.

**(v) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS.**

**(vi) 18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**

~~(22)~~ **(vii)** Section 12(a) of the Physical Therapy Practice Act (63 P.S. § 1312(a)) regarding penalties; injunctive relief, **PERTAINING TO CRIMINAL OFFENSES UNDER THE PHYSICAL THERAPY PRACTICE ACT (63 P.S. §§ 1301—1313).**

~~(23)~~ **(viii)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)—(22) SUBPARAGRAPHS (i)—(vii).**

~~(24)~~ **(ix)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(25)~~ **(x)** An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN**

**SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.445. Schedule of criminal convictions – State Board of Podiatry.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Podiatry (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (c), (d) and (e)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly related to the podiatry profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH §**

**43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking).~~

~~(2) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition).~~

~~(3) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(4) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~

~~(5) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~

~~(6) — 18 Pa.C.S. § 4120 (relating to identity theft).~~

~~(7) — 18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~

~~(8) — 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~

~~(9) — 18 Pa.C.S. § 4953 (relating to retaliation of witnesses, victims or parties).~~

~~(10) (i) 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.~~

**(ii) SECTION 13(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36) AND (37) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT (35 P.S. § 780-113(a)(2), (5), (6), (12), (13), (14), (17), (21), (25), (26), (27), (28), (30), (35), (36) AND (37)), PERTAINING TO CERTAIN VIOLATIONS OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT (35 P.S. §§ 780-101—780-144).**

~~(11) (iii) Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.~~

**(iv) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS).**

**(v) 18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**

~~(12)~~ **(vi)** Section 13 of the Podiatry Practice Act (63 P.S. § 42.13), pertaining to criminal offenses under the Podiatry Practice Act (63 P.S. §§ 42.1—42.21c).

~~(13)~~ **(vii)** Section 8 of the Pharmacy Act (63 P.S. § 390-8), pertaining to criminal offenses under the Pharmacy Act (63 P.S. §§ 390-1—390-13).

~~(14)~~ **(viii)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)—(13)~~ **SUBPARAGRAPHS (i)—(vii)**.

~~(15)~~ **(ix)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(16)~~ **(x)** An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.446. Schedule of criminal convictions – State Board of Psychology.**

**(a)** A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate,

registration or permit issued by the State Board of Psychology (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (e), (d) and (c)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(e)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly related to the psychology profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL'S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL'S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 911(b) (relating to corrupt organizations).~~

~~(2) (i) 18 Pa.C.S. § 2505 (relating to causing or aiding suicide).~~

~~(3) — 18 Pa.C.S. § 2709 (relating to harassment).~~

~~(4) — 18 Pa.C.S. § 2709.1 (relating to stalking).~~

~~(5) — 18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~

~~(6) — 18 Pa.C.S. § 2904 (relating to interference with custody of children).~~

~~(7) — 18 Pa.C.S. § 2905 (relating to interference with custody of committed persons).~~

~~(8) — 18 Pa.C.S. § 2906 (relating to criminal coercion).~~

- (9) — ~~18 Pa.C.S. § 2909 (relating to concealment of whereabouts of a child).~~
- (10) — ~~18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~
- (11) — ~~18 Pa.C.S. § 3921 (relating to theft by unlawful taking).~~
- (12) — ~~18 Pa.C.S. § 3922 (relating to theft by deception).~~
- (13) — ~~18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- (14) — ~~18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- (15) **(ii)** 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse).
- (16) — ~~18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~
- (17) — ~~18 Pa.C.S. § 4953 (relating to retaliations against witness, victim or party).~~
- (18) **(iii)** 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).
- (19) — ~~18 Pa.C.S. § 6319 (relating to solicitation of minors to traffic drugs).~~
- (20) — ~~18 Pa.C.S. § 7509 (relating to furnishing drug free urine).~~
- (21) **(iv)** 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.
- (22) — ~~Section 13(a)(12), (14), (16), (19), (30), (32) and (33) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)(12), (14), (16), (19), (30), (32) and (33), pertaining to violations of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).~~
- (23) **(v)** Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.
- (vi) 18 U.S.C.A. § 1035 (RELATING TO FALSE STATEMENTS RELATING TO**

**HEALTH CARE MATTERS.**

(vii) **18 U.S.C.A. § 1347 (RELATING TO HEALTH CARE FRAUD).**

~~(24)~~ (viii) Section 11 of the Professional Psychologists Practice Act (63 P.S. § 1211), pertaining to criminal offenses under the Professional Psychologists Practice Act (63 P.S. §§ 1201—1218).

~~(25)~~ (ix) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)—(24)~~ **SUBPARAGRAPHS (i)—(viii).**

~~(26)~~ (x) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(27)~~ (xi) An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.447. Schedule of criminal convictions – State Real Estate Commission.**

(a) A conviction of any of the criminal offenses in ~~subsections (b) and (c)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate,

registration or permit issued by the State Real Estate Commission (Commission).

~~(b)~~ (1) Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(e)~~ (2) The following additional criminal offenses that have been deemed by the Commission as directly related to the real estate profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL'S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL'S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~

~~(2) — 18 Pa.C.S. § 3121 (relating to rape).~~

~~(3) — 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).~~

~~(4) — 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).~~

~~(5) — 18 Pa.C.S. § 3124.1 (relating to sexual assault).~~

~~(6) — 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).~~

~~(7) — 18 Pa.C.S. § 3124.3 (relating to sexual assault by sports official, volunteer or employee of nonprofit association).~~

~~(8) — 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).~~

~~(9) — 18 Pa.C.S. § 3126 (relating to indecent assault).~~

~~(10) — 18 Pa.C.S. § 3127 (relating to indecent exposure).~~

~~(11) — 18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).~~

~~(12) — 18 Pa.C.S. § 3502 (relating to burglary).~~

- ~~(13) — 18 Pa.C.S. § 3503 (relating to criminal trespass), when graded as a felony.~~
- ~~(14) — 18 Pa.C.S. § 3701 (relating to robbery).~~
- ~~(15) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking).~~
- ~~(16) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~
- ~~(17) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- ~~(18) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~
- ~~(19) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~
- ~~(20) — 18 Pa.C.S. § 3926 (relating to theft of services).~~
- ~~(21) (i) 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~
- ~~(22) — 18 Pa.C.S. § 3929 (relating to retail theft), when graded as a misdemeanor or higher.~~
- ~~(23) — 18 Pa.C.S. § 3929.3 (relating to organized retail theft).~~
- ~~(24) (ii) 18 Pa.C.S. § 3932 (relating to theft of leased property).~~
- ~~(25) — 18 Pa.C.S. § 3934 (relating to theft of motor vehicle).~~
- ~~(26) (iii) 18 Pa.C.S. § 4101 (relating to forgery).~~
- ~~(27) (iv) 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).~~
- ~~(28) (v) 18 Pa.C.S. § 4104(a) (relating to tampering with records or identification), **WHEN GRADED AS A MISDEMEANOR.**~~
- ~~(29) — 18 Pa.C.S. § 4105 (relating to bad checks), when graded as a felony.~~
- ~~(30) — 18 Pa.C.S. § 4106 (relating to access device fraud), when graded as a felony.~~
- ~~(31) (vi) 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~

- ~~(32) — 18 Pa.C.S. § 4107.2 (relating to deception relating to certification of minority business enterprise or women’s business enterprise).~~
- ~~(33) (vii) 18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).~~
- ~~(34) (viii) 18 Pa.C.S. § 4110 (relating to defrauding secured creditors).~~
- ~~(35) (ix) 18 Pa.C.S. § 4111 (relating to fraud in insolvency).~~
- ~~(36) — 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of governmental or financial institutions).~~
- ~~(37) (x) 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- ~~(38) — 18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).~~
- ~~(39) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(40) — 18 Pa.C.S. § 4120 (relating to identity theft).~~
- ~~(41) — 18 Pa.C.S. § 4701 (relating to bribery in official and political matters).~~
- ~~(42) — 18 Pa.C.S. § 4702 (relating to threats and other improper influence in official and political matters).~~
- ~~(43) — 18 Pa.C.S. § 4703 (relating to retaliation for past official action).~~
- ~~(44) — 18 Pa.C.S. § 4902 (relating to perjury).~~
- ~~(45) — 18 Pa.C.S. § 4903 (relating to false swearing).~~
- ~~(46) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(47) — 18 Pa.C.S. § 4909 (relating to witness or informant taking bribe).~~
- ~~(48) — 18 Pa.C.S. § 4910 (relating to tampering with or fabricating physical evidence).~~
- ~~(49) (xi) 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(50) — 18 Pa.C.S. § 4912 (relating to impersonating a public servant).~~

~~(51)~~ **(xii)** 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).

~~(52)~~—18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements).

~~(53)~~—18 Pa.C.S. § 4915.2 (relating to failure to comply with 42 Pa.C.S. Ch. 97 Subch. I registration requirements).

~~(54)~~—18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims), when graded as a felony.

~~(55)~~—18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).

~~(56)~~—18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).

~~(57)~~ **(xiii)** 18 Pa.C.S. § 7310 (relating to furnishing free insurance as inducement for purchases).

~~(58)~~ **(xiv)** 18 Pa.C.S. § 7331 (relating to unlicensed mortgage loan business).

~~(59)~~—18 Pa.C.S. § 7611 (relating to unlawful use of computer and other computer crimes).

~~(60)~~—18 Pa.C.S. § 7613 (relating to computer theft).

~~(61)~~—18 Pa.C.S. § 7615 (relating to computer trespass).

~~(62)~~ **(xv)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)–(61) SUBPARAGRAPHS (i)–(xiv)**.

~~(63)~~ **(xvi)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(64)~~ **(xvii)** An equivalent crime in another jurisdiction.

**(b) THE COMMISSION RETAINS THE DISCRETION TO DETERMINE THAT,**

**DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE COMMISSION’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.448. Schedule of criminal convictions – State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (e) and (d)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** The following criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board, **WHICH SHALL RAISE A REBUTTABLE**

**PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

- ~~(1) (i) 18 Pa.C.S. § 2505 (relating to causing or aiding suicide).~~
- ~~(2) (ii) 18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~
- ~~(3) 18 Pa.C.S. § 2713 (relating to neglect of care-dependent person).~~
- ~~(4) (iii) 18 Pa.C.S. § 2713.1 (relating to abuse of care-dependent person).~~
- ~~(5) — 18 Pa.C.S. § 2905 (relating to interference with custody of committed person).~~
- ~~(6) — 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).~~
- ~~(7) — 18 Pa.C.S. § 3011 (relating to trafficking in individuals).~~
- ~~(8) — 18 Pa.C.S. § 3012 (relating to involuntary servitude).~~
- ~~(9) — 18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual servitude).~~
- ~~(10) — 18 Pa.C.S. § 3014 (relating to unlawful conduct regarding documents).~~
- ~~(11) — 18 Pa.C.S. § 3015 (relating to nonpayment of wages).~~
- ~~(12) — 18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~
- ~~(13) — Any of the offenses enumerated in 18 Pa.C.S. Ch. 31 (relating to sexual offenses), including the following:~~
  - ~~(i) — 18 Pa.C.S. § 3121 (relating to rape).~~
  - ~~(ii) — 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).~~
  - ~~(iii) — 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).~~

- ~~(iv) — 18 Pa.C.S. § 3124.1 (relating to sexual assault).~~
- ~~(v) — 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).~~
- ~~(vi) — 18 Pa.C.S. § 3124.3 (relating to sexual assault by sports official, volunteer or employee of nonprofit association).~~
- ~~(vii) — 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).~~
- ~~(viii) — 18 Pa.C.S. § 3126 (relating to indecent assault).~~
- ~~(ix) — 18 Pa.C.S. § 3127 (relating to indecent exposure).~~
- ~~(x) — 18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).~~
- ~~(xi) — 18 Pa.C.S. § 3130 (relating to conduct relating to sex offenders).~~
- ~~(xii) — 18 Pa.C.S. § 3131 (relating to unlawful dissemination of intimate image).~~
- ~~(xiii) — 18 Pa.C.S. § 3132 (relating to female mutilation).~~
- ~~(xiv) — 18 Pa.C.S. § 3133 (relating to sexual extortion).~~
- ~~(14) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(15) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(16) — 18 Pa.C.S. § 4302 (relating to incest).~~
- ~~(17) (iv) 18 Pa.C.S. § 4303 (relating to concealing death of a child).~~
- ~~(18) — 18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~
- ~~(19) — 18 Pa.C.S. § 4305 (relating to dealing in infant children).~~
- ~~(20) — 18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~
- ~~(21) (v) 18 Pa.C.S. § 4958 (relating to intimidation in child abuse cases).~~
- ~~(22) — 18 Pa.C.S. § 5901 (relating to open lewdness).~~
- ~~(23) — 18 Pa.C.S. § 5902(b) or (b.1) (relating to prostitution and related offenses) pertaining to promoting prostitution and promoting prostitution of a minor.~~

~~(24) 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances) if the offense involved a minor under 18 years of age.~~

~~(25) 18 Pa.C.S. § 6301(a)(1)(i) and (ii) (relating to corruption of minors).~~

~~(26) 18 Pa.C.S. § 6312 (relating to sexual abuse of children).~~

~~(27) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).~~

~~(28) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).~~

~~(29) 18 Pa.C.S. § 7507.1 (relating to invasion of privacy).~~

~~(30) (vi) 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.~~

~~(31) (vii) 23 Pa.C.S. § 6346 (relating to willful failure to cooperate in investigation of child abuse).~~

~~(32) Section 13(a) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)) pertaining to violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).~~

~~(33) (viii) Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.~~

~~(34) (ix) Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)–(33)~~ SUBPARAGRAPHS (i)–(viii).~~

~~(35) (x) An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.~~

~~(36) (xi) An equivalent crime in another jurisdiction.~~

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION,**

**THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.449. Schedule of criminal convictions – State Board of EXAMINERS IN Speech-Language Pathology and Audiology.**

(a) A conviction of any of the sexual offenses set forth in § 43b.421 (relating to schedule of sexual offenses) constitutes grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of EXAMINERS IN Speech-Language Pathology and Audiology (Board) in accordance with § 43b.404(b) (relating to consideration of criminal convictions).

(b) A conviction of any of the criminal offenses set forth in ~~subsections (e) and (d)~~ **PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the Board.

~~(e)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(d)~~ **(2)** The following additional criminal offenses that have been deemed by the Board as directly related to the professions regulated by the Board, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION,**

**PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE  
INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL  
RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH §  
43b.404(a)(2)(i):**

- (1) — ~~18 Pa.C.S. § 2709.1 (relating to stalking).~~
- (2) — ~~18 Pa.C.S. § 2710 (relating to ethnic intimidation).~~
- (3) (i) 18 Pa.C.S. § 2713 (relating to neglect of a care-dependent person).
- (4) — ~~18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a  
victim of human trafficking.~~
- (5) — ~~18 Pa.C.S. § 3921 (relating to theft by unlawful taking).~~
- (6) — ~~18 Pa.C.S. § 3922 (relating to theft by deception).~~
- (7) — ~~18 Pa.C.S. § 3926 (relating to theft of services).~~
- (8) — ~~18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds  
received).~~
- (9) — ~~18 Pa.C.S. § 4101 (relating to forgery).~~
- (10) — ~~18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~
- (11) — ~~18 Pa.C.S. § 4106 (relating to access device fraud).~~
- (12) — ~~18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- (13) — ~~18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act  
disinterestedly).~~
- (14) — ~~18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).~~
- (15) — ~~18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- (16) — ~~18 Pa.C.S. § 4120 (relating to identity theft).~~

- ~~(17)~~—18 Pa.C.S. § 4304 (relating to endangering welfare of children).
- ~~(18)~~—18 Pa.C.S. § 4902 (relating to perjury).
- ~~(19)~~—18 Pa.C.S. § 4903 (relating to false swearing).
- ~~(20)~~—18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).
- ~~(21)~~—18 Pa.C.S. § 4911 (relating to tampering with public records or information).
- ~~(22)~~ **(ii)** 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).
- ~~(23)~~—18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims), when graded as a felony.
- ~~(24)~~—18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).
- ~~(25)~~—18 Pa.C.S. § 5101 (relating to obstructing administration of law or other governmental function).
- ~~(26)~~—18 Pa.C.S. § 5105 (relating to hindering apprehension or prosecution).
- ~~(27)~~—18 Pa.C.S. § 5111 (relating to dealing in proceeds of unlawful activity).
- ~~(28)~~ **(iii)** 23 Pa.C.S. § 6319 (relating to penalties), pertaining to failure to report suspected child abuse.
- ~~(29)~~ **(iv)** Section 1407 of the Human Services Code (62 P.S. § 1407), pertaining to Medicaid fraud.
- ~~(30)~~ **(v)** Section 18(a) of the Speech-Language Pathologists and Audiologists Licensure Act (63 P.S. § 1718(a)), pertaining to criminal offenses under the Speech-Language Pathologists and Audiologists Licensure Act (63 P.S. §§ 1701—1719).
- ~~(31)~~ **(vi)** Section 1102 of the Workers’ Compensation Act (77 P.S. § 1039.2), pertaining to insurance fraud under the Workers’ Compensation Act (77 P.S. §§ 1—2710).

~~(32)~~ **(vii)** 18 U.S.C.A. § 1035 (relating to false statements relating to health care matters).

~~(33)~~—18 U.S.C.A. § 1341 (relating to mail fraud).

~~(34)~~ **(viii)** 18 U.S.C.A. § 1347 (relating to health care fraud).

~~(35)~~—26 U.S.C. § 7206 (relating to fraud and false statements).

~~(36)~~ **(ix)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in **paragraphs (1)—(35) SUBPARAGRAPHS (i)—(viii)**.

~~(37)~~ **(x)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(38)~~ **(xi)** An equivalent crime in another jurisdiction.

**(c) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.450. Schedule of criminal convictions – State Board of Vehicle Manufacturers, Dealers and Salespersons.**

**(a)** A conviction of any of the criminal offenses in **subsections (b) and (c) PARAGRAPHS (1) AND (2)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate,

registration or permit issued by the State Board of Vehicle Manufacturers, Dealers and Salespersons (Board).

~~(b)~~ (1) Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c) (relating to consideration of criminal convictions).

~~(e)~~ (2) The following additional criminal offenses that have been deemed by the Board as directly related to the vehicle profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

~~(1) — 18 Pa.C.S. § 3921 (relating to theft by unlawful taking).~~

~~(2) — 18 Pa.C.S. § 3922 (relating to theft by deception).~~

~~(3) — 18 Pa.C.S. § 3923 (relating to theft by extortion).~~

~~(4) — 18 Pa.C.S. § 3924 (relating to theft of property lost, mislaid, or delivered by mistake).~~

~~(5) — 18 Pa.C.S. § 3925 (relating to receiving stolen property).~~

~~(6) — 18 Pa.C.S. § 3926 (relating to theft of services).~~

~~(7) — 18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~

~~(8) — 18 Pa.C.S. § 3934 (relating to theft from a motor vehicle).~~

~~(9)~~ (i) 18 Pa.C.S. § 4101 (relating to forgery).

~~(10) — 18 Pa.C.S. § 4103 (relating to fraudulent destruction, removal or concealment of recordable instruments).~~

~~(11)~~ **(ii)** 18 Pa.C.S. § 4104(a) (relating to tampering with records or identification),

**WHEN GRADED AS A MISDEMEANOR.**

~~(12)~~—18 Pa.C.S. § 4105 (relating to bad checks), when graded as a felony.

~~(13)~~ **(iii)** 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).

~~(14)~~—18 Pa.C.S. § 4108 (relating to commercial bribery and breach of duty to act disinterestedly).

~~(15)~~—18 Pa.C.S. § 4110 (relating to defrauding secured creditors).

~~(16)~~ **(iv)** 18 Pa.C.S. § 4114 (relating to securing execution of documents by deception).

~~(17)~~—18 Pa.C.S. § 4115 (relating to falsely impersonating persons privately employed).

~~(18)~~—18 Pa.C.S. § 4117 (relating to insurance fraud).

~~(19)~~ **(v)** 18 Pa.C.S. § 4118 (relating to washing vehicle titles).

~~(20)~~—18 Pa.C.S. § 4120 (relating to identity theft).

~~(21)~~—18 Pa.C.S. § 4121 (relating to possession and use of unlawful devices).

~~(22)~~—18 Pa.C.S. § 4701 (relating to bribery in official and political matters).

~~(23)~~—18 Pa.C.S. § 4902 (relating to perjury).

~~(24)~~—18 Pa.C.S. § 4911 (relating to tampering with public records or information).

~~(25)~~ **(vi)** 18 Pa.C.S. § 4913 (relating to impersonating a notary public or holder of a professional or occupational license).

~~(26)~~—18 Pa.C.S. § 5111 (relating to dealing in proceeds of unlawful activity).

~~(27)~~ **(vii)** 75 Pa.C.S. § 7122 (relating to altered, forged or counterfeit documents and plates).

~~(28)~~ **(viii)** 75 Pa.C.S. § 7132 (relating to prohibited activities relating to odometers).

~~(29)~~ **(ix)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of

the offenses listed in ~~paragraphs (1)–(28)~~ **SUBPARAGRAPHS (i)–(viii)**.

~~(30)~~ **(x)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(31)~~ **(xi)** An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.451. Schedule of criminal convictions – State Board of Veterinary Medicine.**

**(a)** A conviction of any of the criminal offenses in ~~subsections (b), (c) and (d)~~ **PARAGRAPHS (1), (2) AND (3)** may constitute grounds to refuse to issue, suspend or revoke a license, certificate, registration or permit issued by the State Board of Veterinary Medicine (Board).

~~(b)~~ **(1)** Each of the crimes of violence set forth in § 43b.422 (relating to crimes of violence), in accordance with § 43b.404(c).

~~(c)~~ **(2)** A drug trafficking offense in accordance with § 43b.404(d).

~~(d)~~ **(3)** The following additional criminal offenses that have been deemed by the Board as directly

related to the veterinary medical profession, **WHICH SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE INDIVIDUAL’S LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION POSES A SUBSTANTIAL RISK TO THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(i):**

- (1) — ~~18 Pa.C.S. § 2705 (relating to recklessly endangering another person).~~
- (2) — ~~18 Pa.C.S. § 2713 (relating to neglect of care dependent person).~~
- (3) — ~~18 Pa.C.S. § 2713.1 (relating to abuse of care dependent person).~~
- (4) — ~~18 Pa.C.S. § 3011 (relating to trafficking in individuals).~~
- (5) — ~~18 Pa.C.S. § 3012 (relating to involuntary servitude).~~
- (6) — ~~18 Pa.C.S. § 3022 (relating to professional licenses), pertaining to employing a victim of human trafficking.~~
- (7) (i) ~~18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).~~
- (8) — ~~18 Pa.C.S. § 3133 (relating to sexual extortion).~~
- (9) — ~~18 Pa.C.S. § 3921 (relating to theft by unlawful taking).~~
- (10) — ~~18 Pa.C.S. § 3922 (relating to theft by deception).~~
- (11) — ~~18 Pa.C.S. § 3923 (relating to theft by extortion).~~
- (12) — ~~18 Pa.C.S. § 3927 (relating to theft by failure to make required disposition of funds received).~~
- (13) — ~~18 Pa.C.S. § 4101 (relating to forgery).~~
- (14) — ~~18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~
- (15) — ~~18 Pa.C.S. § 4106 (relating to access device fraud).~~

- ~~(16) — 18 Pa.C.S. § 4107 (relating to deceptive or fraudulent business practices).~~
- ~~(17) — 18 Pa.C.S. § 4117 (relating to insurance fraud).~~
- ~~(18) — 18 Pa.C.S. § 4304 (relating to endangering welfare of children).~~
- ~~(19) — 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~
- ~~(20) — 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).~~
- ~~(21) — Any of the offenses enumerated in 18 Pa.C.S. Ch. 55, Subchapter B (relating to cruelty to animals).~~
- ~~(22) — 35 P.S. § 780-113(a) (relating to prohibited acts; penalties), pertaining to violations of the Controlled Substance, Drug, Device and Cosmetic Act.~~
- (ii) 18 Pa.C.S. § 5532 (RELATING TO NEGLECT OF ANIMAL).**
- (iii) 18 Pa.C.S. § 5533 (RELATING TO CRUELTY TO ANIMAL).**
- (iv) 18 Pa.C.S. § 5534 (RELATING TO AGGRAVATED CRUELTY TO ANIMAL).**
- (v) 18 Pa.C.S. § 5535 (RELATING TO ATTACK OF SERVICE, GUIDE OR SUPPORT DOG).**
- (vi) 18 Pa.C.S. § 5536 (RELATING TO TETHERING OF UNATTENDED DOG).**
- (vii) 18 Pa.C.S. § 5537 (RELATING TO SELLING OR USING DISABLED HORSE).**
- (viii) 18 Pa.C.S. § 5538 (RELATING TO TRANSPORTING ANIMALS IN CRUEL MANNER).**
- (ix) 18 Pa.C.S. § 5539 (RELATING TO TRANSPORTING EQUINE ANIMALS IN CRUEL MANNER).**
- (x) 18 Pa.C.S. § 5540 (RELATING TO HOURS OF LABOR OF ANIMALS).**

**(xi) 18 Pa.C.S. § 5541 (RELATING TO CRUELTY TO COW TO ENHANCE APPEARANCE OF UDDER).**

**(xii) 18 Pa.C.S. § 5542 (RELATING TO ANIMAL MUTILATION AND RELATED OFFENSES).**

**(xiii) 18 Pa.C.S. § 5543 (RELATING TO ANIMAL FIGHTING).**

**(xiv) 18 Pa.C.S. § 5544 (RELATING TO POSSESSION OF ANIMAL FIGHTING PARAPHERNALIA).**

**(xv) 18 Pa.C.S. § 5545 (RELATING TO KILLING HOMING PIGEONS).**

**(xvi) 18 Pa.C.S. § 5546 (RELATING TO SKINNING OF AND SELLING OR BUYING PELTS OF DOGS AND CATS).**

**(xvii) 18 Pa.C.S. § 5547 (RELATING TO LIVE ANIMALS AS PRIZES PROHIBITED).**

**(xviii) 18 Pa.C.S. § 5548 (RELATING TO POLICE ANIMALS).**

**(xix) 18 Pa.C.S. § 5549 (RELATING TO ASSAULT WITH A BIOLOGICAL AGENT ON ANIMAL, FOWL OR HONEY BEES).**

~~(23)~~ **(xx)** Criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed in ~~paragraphs (1)–(22)~~ **SUBPARAGRAPHS (i)–(xix)**.

~~(24)~~ **(xxi)** An equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense.

~~(25)~~ **(xxii)** An equivalent crime in another jurisdiction.

**(b) THE BOARD RETAINS THE DISCRETION TO DETERMINE THAT, DUE TO THE NATURE OF THE CRIMINAL CONDUCT THAT LED TO THE CONVICTION, THE LICENSURE, CERTIFICATION, PERMITTING OR REGISTRATION OF AN**

**INDIVIDUAL WITH A CRIMINAL CONVICTION FOR AN OFFENSE NOT LISTED IN SUBSECTION (a) WOULD POSE A SUBSTANTIAL RISK TO THE HEALTH AND SAFETY OF THE INDIVIDUAL’S PATIENTS OR CLIENTS OR TO THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER CRIMINAL CONVICTIONS IN ACCORDANCE WITH § 43b.404(a)(2)(ii). THE INDIVIDUAL MAY REBUT THE BOARD’S DETERMINATION BY SHOWING EVIDENCE OF REHABILITATION UTILIZING THE FACTORS IN § 43b.404(a)(3).**

**§ 43b.452. TIME LIMITS.**

**FOR PURPOSES OF CONDUCTING THE ASSESSMENT REQUIRED IN § 43b.404 (RELATING TO CONSIDERATION OF CRIMINAL CONVICTIONS), A CONVICTION OF AN OFFENSE IDENTIFIED BY THE RELEVANT LICENSING BOARD OR COMMISSION AS DIRECTLY RELATED TO A PROFESSION OR OCCUPATION IN §§ 43b.423—43b.451 WILL NO LONGER BE CONSIDERED DIRECTLY RELATED TO THE PROFESSION OR OCCUPATION IF AT LEAST 5 YEARS HAVE PASSED SINCE THE INDIVIDUAL’S CONVICTION OF THAT OFFENSE.**



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 214-1891

June 3, 2024

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

Re: Report and Revised Final-Form Rulemaking  
Bureau of Professional and Occupational Affairs  
16A-66: Consideration of Criminal Convictions

Dear Chairman Bedwick:

Enclosed is the report required under Section 7(c) of the Regulatory Review Act (71 P.S. 745.7(c)), along with a copy of a revised final rulemaking package of the Acting Commissioner of Professional and Occupational Affairs pertaining to 16A-66: Consideration of Criminal Convictions, following disapproval of the final-form rulemaking by the Independent Regulatory Review Commission. The Acting Commissioner has amended the final-form rulemaking and resubmits it for approval in accordance with the Regulatory Review Act.

The Acting Commissioner 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 that reads "Arion R. Claggett".

Arion R. Claggett  
Acting Commissioner of  
Professional and Occupational Affairs

ARC/  
Enclosure

cc: K. Kalonji Johnson, Deputy Secretary for Regulatory Programs  
Michael McDonald, Policy Director, Department of State  
Cynthia Montgomery, Deputy Chief Counsel, Department of State

**From:** [Vazquez, Enid](#)  
**To:** [Bennetch, Erica](#)  
**Cc:** [Monoski, Jesse](#)  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS  
**Date:** Monday, June 3, 2024 10:00:32 AM  
**Attachments:** [image001.png](#)

RECEIVED

Good morning Erica,

Independent Regulatory  
Review Commission

Received

June 3, 2024

Thank you,

**Enid Vazquez**

State Senator Lisa M. Boscola  
One E. Broad Street – Suite 120  
Bethlehem, PA 18018  
O: 610-868-8667  
F: 610-861-2184  
[www.senatorboscola.com](http://www.senatorboscola.com)

---

**From:** Bennetch, Erica <erbennetch@pa.gov>  
**Sent:** Monday, June 3, 2024 9:46 AM  
**To:** Vazquez, Enid <Enid.Vazquez@pasenate.com>  
**Cc:** Monoski, Jesse <jesse.monoski@pasenate.com>  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS  
**Importance:** High

**EXTERNAL EMAIL**

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Please accept this email as a revised attachment for 16A-66 delivery. Please confirm receipt.

Erica L. Bennetch | Legal Assistant 2  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
Office Phone 717.775.8145 | Fax: 717.787.0251  
[erbennetch@pa.gov](mailto:erbennetch@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)  
(preferred pronouns: she, her, hers)

**PRIVILEGED AND CONFIDENTIAL COMMUNICATION**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

**From:** [Orchard, Kari L.](#)  
**To:** [Bennetch, Erica](#)  
**Cc:** [Brett, Joseph D.](#); [Barton, Jamie](#)  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS  
**Date:** Monday, June 3, 2024 10:10:43 AM  
**Attachments:** [image001.png](#)

**RECEIVED**

Received the revised version.

Independent Regulatory  
Review Commission

Kari

June 3, 2024

**Kari Orchard**

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

---

**From:** Bennetch, Erica <erbennetch@pa.gov>  
**Sent:** Monday, June 3, 2024 9:44 AM  
**To:** Orchard, Kari L. <KOrchard@pahouse.net>  
**Cc:** Brett, Joseph D. <JBrett@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS

Please be advised and accept the attached revised delivery of 16A-66. Please confirm receipt.

Erica L. Bennetch | Legal Assistant 2  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
Office Phone 717.775.8145 | Fax: 717.787.0251  
[erbennetch@pa.gov](mailto:erbennetch@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)  
(preferred pronouns: she, her, hers)

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---

**From:** Orchard, Kari L. <KOrchard@pahouse.net>  
**Sent:** Monday, June 3, 2024 9:30 AM  
**To:** Bennetch, Erica <erbennetch@pa.gov>; Brett, Joseph D. <JBrett@pahouse.net>; Barton, Jamie <JBarton@pahouse.net>  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND

**From:** [Nicole Sidle](#)  
**To:** [Bennetch, Erica](#)  
**Subject:** RE: [EXTERNAL]: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS  
**Date:** Monday, June 3, 2024 10:50:00 AM  
**Attachments:** [image001.png](#)

**RECEIVED**

Received.

Independent Regulatory  
Review Commission

June 3, 2024

**From:** Bennetch, Erica <[erbennetch@pa.gov](mailto:erbennetch@pa.gov)>  
**Sent:** Monday, June 3, 2024 9:43 AM  
**To:** Nicole Sidle <[Nsidle@pahousegop.com](mailto:Nsidle@pahousegop.com)>  
**Subject:** RE: [EXTERNAL]: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS  
**Importance:** High

Please be advised and accept this email with revised attachment of 16A-66. Please confirm receipt.

Erica L. Bennetch | Legal Assistant 2  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
Office Phone 717.775.8145 | Fax: 717.787.0251  
[erbennetch@pa.gov](mailto:erbennetch@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)  
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**From:** Nicole Sidle <[Nsidle@pahousegop.com](mailto:Nsidle@pahousegop.com)>  
**Sent:** Monday, June 3, 2024 9:22 AM  
**To:** Bennetch, Erica <[erbennetch@pa.gov](mailto:erbennetch@pa.gov)>  
**Subject:** RE: [EXTERNAL]: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS

Received.

Nicole

**From:** Bennetch, Erica <[erbennetch@pa.gov](mailto:erbennetch@pa.gov)>  
**Sent:** Monday, June 3, 2024 9:02 AM

**From:** [Smeltz, Jennifer](#)  
**To:** [Bennetch, Erica](#)  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS  
**Date:** Monday, June 3, 2024 10:04:44 AM  
**Attachments:** [image001.png](#)

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Review Commission

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

June 3, 2024

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**From:** Bennetch, Erica <erbennetch@pa.gov>  
**Sent:** Monday, June 3, 2024 9:42 AM  
**To:** Smeltz, Jennifer <jmsmeltz@pasen.gov>  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND PAREA AND FINAL 16A-66 CONSIDERATION OF CRIMINAL CONVICTIONS  
**Importance:** High

ⓘ CAUTION : External Email ⓘ

My apologies, please be advised of the attached revised delivery for 16A-66. Please confirm receipt.

Erica L. Bennetch | Legal Assistant 2  
Office of Chief Counsel | Department of State  
Governor's Office of General Counsel  
P.O. Box 69523 | Harrisburg, PA 17106-9523  
Office Phone 717.775.8145 | Fax: 717.787.0251  
[erbennetch@pa.gov](mailto:erbennetch@pa.gov) | [www.dos.pa.gov](http://www.dos.pa.gov)  
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---

**From:** Smeltz, Jennifer <[jmsmeltz@pasen.gov](mailto:jmsmeltz@pasen.gov)>  
**Sent:** Monday, June 3, 2024 9:17 AM  
**To:** Bennetch, Erica <[erbennetch@pa.gov](mailto:erbennetch@pa.gov)>  
**Subject:** RE: DELIVERY NOTICE: REGULATIONS: PROPOSED 16A-7029 DISTANCE EDUCATION AND