

PROPOSED RULEMAKING

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

[49 PA. CODE CHS. 43b AND 45]

Fees; General Revisions

The State Board of Examiners in Speech-Language Pathology and Audiology (Board) and the Commissioner of Professional and Occupational Affairs (Commissioner) jointly propose to amend §§ 43b.16a, 45.1, 45.2, 45.11—45.17, 45.20—45.22, 45.102, 45.103, 45.301, 45.304, 45.305, 45.307, 45.308, 45.401, 45.501, 45.505 and 45.507, rescind §§ 45.18 and 45.19 (relating to criteria for master's degree equivalent; and practicum) and add §§ 45.23 and 45.24 (relating to provisional licenses; and certification to utilize neurophysiologic intraoperative monitoring) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 5(2) of the Speech-Language Pathologists and Audiologists Licensure Act (act) (63 P.S. § 1705(2)) authorizes the Board to adopt and revise rules and regulations consistent with the act as may be necessary to implement the provisions of the act. Section 5(7) of the act specifically authorizes the Board to establish standards of eligibility for license renewal, which includes demonstration of satisfactory completion of continuing education. Additionally, section 8.1 of the act (63 P.S. § 1708.1) requires that the Board issue certifications to audiologists utilizing neurophysiologic intraoperative monitoring (IOM).

In connection with the fees, section 7(d)(1) of the act (63 P.S. § 1707(d)(1)) authorizes the Board to issue provisional licenses to qualifying applicants who submit an application and an accompanying fee. Additionally, section 8(a) of the act (63 P.S. § 1708(a)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period. Finally, section 810(a)(3) and (7) of The Administrative Code of 1929 (71 P.S. § 279.1(a)(3) and (7)) authorizes the Commissioner to issue all certificates and other official documents of the various professional and occupational examining boards and, unless otherwise provided by law, to fix the fees to be charged by the boards within the Bureau of Professional and Occupational Affairs (Bureau).

With regard to the schedule of civil penalties, section 5 of the act of July 2, 1993 (P.L. 345, No. 48) (63 P.S.

§ 2205) authorizes the Commissioner to adopt a schedule of civil penalties for violations under the act and regulations of the Board.

Background and Purpose

The act of July 2, 2014 (P.L. 971, No. 106) (Act 106) significantly amended the act relating to the regulation of the practice of speech language pathology and audiology. In addition to renaming the act and the Board, Act 106 eliminated a class of licensee—teachers of the hearing impaired—from the Board's regulatory authority. (This licensee class consisted of less than 100 licensees.) Act 106 further defined "speech-language pathologist," the "practice of speech-language pathology" and "audiologist and the "practice of audiology," authorized the Board to issue provisional licenses, increased the licensure requirements for audiologists and added a certification requirement for audiologists utilizing IOM. In addition, Act 106 added provisions in other professional and occupational licensure acts including the forfeiture of a Board member's seat for failure to attend meetings, authorization to compel mental or physical examinations, authorization to require evidence of continued competency to reinstate a license if the license has been expired for 5 years or more, and addition of title protection and civil penalty authority for unlicensed practice. This proposed rulemaking reflects the changes made to the act by Act 106.

As part of this proposed rulemaking, the Board and Commissioner are setting fees for the new credentials provided for by Act 106—provisional licenses and certificates to utilize IOM. In doing so, the Board considered its entire fee structure to assure that the fees were equitable and that the new fees would produce adequate revenue to support the operations of the Board. In connection with fees, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, section 8(a) of the act requires the Board to increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the majority (approximately 85%) of its revenue through biennial renewal fees. A small percentage (approximately 15%) of its revenue comes from other fees, fines and civil penalties.

At the Board's meeting on February 27, 2015, representatives from the Department of State's Bureau of Finance and Operations (BFO) presented a summary of the Board's actual revenue and expenses for Fiscal Years (FY) 2007-2008—2014-2015 and projected revenue and expenses through FY 2025-2026 with a recommendation for a biennial renewal fee increase and new fees for provisional licenses, provisional license renewals and IOM certifications based upon the costs of issuing the licenses/certifications. At the request of the Board, the BFO submitted revised budgetary information for that same period with an alternative recommendation that also included an initial license increase. The Board reviewed the revised budgetary information at its June 26, 2015, meeting.

The BFO pointed out to the Board that at the current fee levels, with the elimination of the teacher of the hearing impaired licensure classification, the Board receives revenue of approximately \$425,000 over a 2-year period, while budgeted expenditures for FYs 2015-2016 and 2016-2017 are projected at \$519,000—a deficit of \$94,000. Without an increase in fees, these operating

deficits will continue to grow due to ever-increasing expenses of operating the Board and its required enforcement efforts. The BFO projects that by FYs 2022-2023 and 2023-2024, the biennial deficit will grow to \$184,000 (biennial revenue of \$425,000 and projected biennial expenses of \$609,000). Even with the addition of fees regarding the issuance of provisional licenses and IOM certificates, expenditures will continue to outpace revenue. For these reasons, the Board determined to consider its entire fee structure at this time. In addition to setting the three new fees (provisional license application fee, provision license renewal fee and IOM certification fee), the Board considered two alternatives. The first involved an increase only to the biennial renewal fees for speech-language pathologists and audiologists from \$46 to \$75. The second option considered was to increase the initial licensure fee for speech-language pathologists and audiologists from \$20 to \$50, and only increase the biennial renewal fee to \$65. The Board believes that the latter option is a better approach as it more accurately reflects the costs of issuing the initial license and spreads the Board's costs over new and existing licensees.

As a result, the Board voted at its June 26, 2015, meeting to increase initial license fees from \$20 to \$50 and biennial renewal fees from \$46 to \$65, in addition to setting provisional license fees at \$50, provisional license renewal fees at \$30 and IOM certification fees of \$15 as set forth in Annex A. With approximately 8,500 active licensees and approximately 650 applicants for licensure annually, the Board believes that these fees will be adequate to continue a positive balance for at least 10 years.

Description of Proposed Amendments

§ 43b.16a. Schedule of civil penalties—audiologists and speech-language pathologists

Due to the elimination of the “teacher of the hearing impaired” class of licenses, the Commissioner proposes to amend the schedule of civil penalties to remove all references to teachers of the hearing impaired.

§ 45.1. Fees

The proposed amendments to § 45.1 (relating to fees) would increase initial licensure fees for speech-language pathologists and audiologists from \$20 to \$50 to more accurately reflect the costs associated with processing the initial applications. Further, biennial renewal fees would increase from \$46 to \$65 for speech-language pathologists and audiologists. This section is also proposed to be amended to delete references to teachers of the hearing impaired as this class of license has been eliminated. In addition, the Board proposes to add a provisional license fee of \$50 and the Commissioner proposes to add an IOM certification fee of \$15. These new fees reflect the Board's estimated cost in issuing the provisional licenses and IOM certifications. Aside from recording the examination results, the costs of reviewing and processing the provisional license application are identical to those associated with issuance of an initial license. The costs associated with IOM certification are minimal as for the majority of the applicants the Board needs only to review the certification to assure that it is from a body recognized by the Board and issue the certificate. Otherwise, the Board only needs to check applicant's transcripts to assure IOM coursework. Finally, the Board is proposing a provisional license renewal fee of \$30.

§ 45.2. Definitions

The Board proposes to amend the definitions of “act” and “Board” to reflect the new names as amended by Act

106. The Board also proposes to amend the definition of “licensees” to delete the reference to teachers of the hearing impaired and delete the definition “practice of teaching the hearing-impaired.”

The Board proposes to amend the definitions of “practice of audiology” and “practice of speech-language pathology” to delineate the changes to the practices in section 3 of the act (63 P.S. § 1703) as well as to recognize the practical definitions of the practices recognized by the National professional organizations in speech-language pathology and audiology under section 5(9) of the act.

Specifically, the amended definition of the “practice of audiology” in section 3 of the act enumerates 14 practice areas. The Board has chosen not to repeat those practice areas in the regulations as they are self-explanatory. Proposed subparagraph (i) of the definition of the “practice of audiology” would incorporate by reference, based upon the express authority granted to the Board in section 5(9) of the act, those practice areas and activities in the definition of the “practice of audiology” recognized by the American Speech-Language-Hearing Association (ASHA), American Academy of Audiology (AAA) and the Academy of Doctors of Audiology (ADA). The Board reviewed the definitions and finds them to be consistent with the definition in the act. In the event that the ASHA, AAA and ADA revise their definitions and the Board concurs with those definitions, the Board would be required to amend the regulations as the adopted definitions are limited to those specifically adopted in this provision. Proposed subparagraph (ii) specifically enumerates IOM as within the definition of the “practice of audiology” for those licensed audiologists who hold a certification from the Board as authorized in sections 3 and 8.1 of the act.

The amended definition of the “practice of speech-language pathology” in section 3 of the act enumerates nine practice areas. Because some of those practice areas require additional explanation, proposed subparagraphs (i)—(x) of the definition of “practice of speech-language pathology” clarify those practice areas in section 3(1)—(9) of the act. Additionally, like proposed subparagraph (i) of the definition of the “practice of audiology,” proposed subsection (xi), based upon the express authority granted to the Board in section 5(9) of the act, would incorporate those practice areas and activities in ASHA's definition of the “practice of speech-language pathology” developed by the ASHA's Ad Hoc Committee on the Scope of Practice in Speech-Language Pathology and approved by the ASHA Legislative Council in 2007. The Board reviewed this definition and found it to be consistent with the definition in the act.

Additionally, the Board proposes deleting the definitions of “practicum” and “qualified training supervisor.” A practicum is completed as a condition for the award of an academic degree under the supervision of a qualified training supervisor. The amendments to section 7 of the act presuppose the completion of the practicum as all accredited academic programs for speech-language pathology and audiology require completion of the practicum. Therefore, definitions of “practicum” and “qualified training supervisor” are unnecessary. Lastly, the Board proposes to delete the definition of “YSPE” because this acronym is proposed to be deleted throughout the regulations in this proposed rulemaking. The proposed amendments instead refers to the 9-month requirement as “supervised professional experience.”

§ 45.11. *Licenses and certifications*

The Board proposes to amend § 45.11 (relating to licenses and certifications) to include the issuance of provisional licenses and IOM certifications as authorized by sections 5(3), 7(d) and 8.1 of the act.

§ 45.12. *Licensure application procedures*

This proposed rulemaking would amend the licensure application procedures to track the amendments to section 7(a)(1) of the act as it applies to speech-language pathologists and section 7(a)(2) of the act as it applies to audiologists. Aside from renumbering and the name change associated with supervised professional experience, changes are not proposed to the speech-language pathologist procedures. The procedures for audiologists in proposed § 45.12(b)(2) (relating to licensure application procedures) track the licensure requirements in section 7(a)(2) of the act.

§ 45.13. *Renewal of license; inactive status of license; required continuing education*

The Board proposes to amend § 45.13 (relating to renewal of license; inactive status of license; required continuing education) to reflect current practice in connection with biennial license renewals. Subsection (b) would be amended to clarify that licenses, certifications and Board documentation will be sent to the address provided to the Board by the licensee. Subsection (c) is proposed to be amended to clarify that unless a licensee requests that a license be placed on inactive status, at the end of a biennial period it will be marked expired until it is renewed or reactivated. Subsection (e) is proposed to be amended to clarify that licenses that are not renewed or placed on inactive status will be marked expired. Subsection (f) is proposed to be amended to clarify that until the expired/inactive licenses are renewed/reactivated, the Board will not send licensees notifications. Subsections (g) and (h) are proposed to be amended to delete the reference to “speech-language pathologist, audiologist or teacher of the hearing impaired,” as the references are unnecessary.

§ 45.14. *Reactivation of licensure status*

Proposed amendments to § 45.14(a) (relating to reactivation of licensure status) delete the notarized affidavit requirement to reactivate a license that has been inactive for less than 5 years. This proposed amendment is consistent with the Board’s current requirement of submission of a verification of nonpractice. Proposed subsection (d) would establish reactivation procedures for licenses that are inactive for more than 5 years tracking the requirement in section 14 of the act (63 P.S. § 1714) that the licensee has assured continued competency. Evidence of continued competency requires one of the following: (1) successful completion of the initial licensing examination; (2) successful completion of the continuing education during the entire lapsed/suspended/inactive period; or (3) documentation evidencing engagement in practice in another jurisdiction for some period within the last 5 years. The Board contemplated including the completion of a reactivation course as evidence of continued competency, similar to the requirement for nurses. However, there are currently no reactivation courses available.

§ 45.15. *Duplicate licenses*

Proposed amendments to § 45.15 (relating to duplicate licenses) delete the requirement that licensees submit a notarized statement providing the rationale for the request for a duplicate as the act does not require the

submission of a notarized statement to obtain a duplicate license. Additionally, because wallet cards are not duplicated, the provision permitting wallet cards is proposed to be deleted.

§ 45.16. *Display of license*

Proposed amendments to § 45.16 (relating to display of license) replace the requirement that licensees post their original certificates in their places of businesses. The Bureau no longer issues wall certificates for any profession; it only issues licenses, certifications and wallet cards to Bureau licensees.

§ 45.17. *Education requirements*

Proposed amendments to § 45.17 (relating to education requirements) track the changes to section 7 of the act. For speech-language pathologists, § 45.17(a) would require that applicants possess either a master’s or doctoral degree from an academic program accredited by an accrediting agency approved by the Board. The Board will post a list of approved accrediting agencies on its web site. The Board believes that including the list of approved accrediting agencies in the regulation delays the addition or deletion of approved accrediting agencies.

Proposed amendments to § 45.17(b) to track the educational requirement change in section 7(a)(2) of the act, requiring, as of January 1, 2015, that all applicants for audiology possess a doctoral degree in audiology that includes a practicum from an academic program accredited by an accrediting agency approved by the Board and the United States Department of Education or the Council for Higher Education Accreditation. Like proposed subsection (a), the degree must include a practicum and the list of Board-approved accrediting agencies will be available on the Board’s web site.

Subsection (c) is proposed to be deleted as it addresses teachers of the hearing-impaired who are no longer licensed by the Board.

§ 45.18. *Criteria for master’s degree equivalent*

In that section 7 of the act eliminated the master’s degree equivalent, the Board proposes to rescind § 45.18.

§ 45.19. *Practicum*

Additionally, as explained in connection with the definition of “practicum” in § 45.2, § 45.19 is proposed to be rescinded. Because all of the speech-language pathology and audiology programs in the United States require completion of a practicum to obtain the required degree, the Board no longer needs to set standards for or review documentation relating to completion of a practicum.

§ 45.20. *Supervised professional experience*

Unlike audiology students who complete their supervised professional experience during the last year of their doctoral degree programs, speech-language pathology students complete their supervised professional experiences after their degrees are conferred.

Aside from replacing “YSPE” with “supervised professional experience” throughout § 45.20 (relating to supervised professional experience), proposed amendments to subsection (a) delete the reference to practicum requirements. Proposed subsection (a) modifies the minimum number of hours of supervised professional experience that shall be completed in at least 9 months under section 7(a) of the act. The Board’s requirement that speech-language pathologists complete at least 1,260 hours of supervised professional experience matches the requirement for ASHA certification, which permits portability of licenses. The Board has not altered its require-

ment that the supervised professional experience be completed within 2 years, and has retained the ability to request a waiver of the mandated timeframes in case of demonstrated undue hardship, military service or other good cause.

Proposed subsection (c) add the requirement that the supervision be provided by a currently licensed speech-language pathologist in the state or jurisdiction where the supervised professional experience is being obtained. The Board believes that this addition will enable speech-language pathologists to obtain the necessary experience without hardship. Proposed subsection (d) requires supervisees to advise individuals under their care that the supervisee is working under the supervision of a licensed speech-language pathologist. The Board believes that this requirement is in the interest of the individuals receiving care.

§ 45.21. Waivers

Proposed amendments to § 45.21(2) (relating to waivers) reflect the current name of ASHA's Council for Clinical Certification. Paragraph (3) is proposed to be deleted as it applies solely to teachers of the hearing impaired. It will be replaced with the exemption in section 7(c) of the act.

§ 45.22. Foreign-trained applicants

Section 45.22 (relating to foreign-trained applicants) is proposed to be split into two subsections for speech-language pathologists and audiologists because the educational requirements for the two professions differ as set forth in section 7(a) of the act.

§ 45.23. Provisional licenses

Proposed § 45.23 stems from the authorization in section 7(d) of the act to issue provisional licenses to: (1) speech-language pathologists and audiologists licensed in other states; (2) speech-language pathologists who are completing their supervised professional experience; and (3) audiologists who are applying for licensure or post-doctoral graduate students completing additional post-graduate professional experience. The differing lengths of the various provisional licenses are in section 7(d) of the act. Subsection (a)(1)(i) and (2)(i) tracks the statutory time frame of 6 months because the applicant has completed all of the requirements for licensure but is awaiting the issuance of the license by the Board. Subsection (a)(1)(ii) and (2)(ii) tracks the statutory time frame of 18 months enabling individuals to practice speech-language pathology or audiology while completing the professional experience required under section 7(b)(2) of the act. Because audiologists complete their supervised professional experience as part of their audiology degree, the Board understands this provision to apply to individuals seeking additional education, for example, a doctorate in education following the conferral of a doctorate in audiology. Subsection (a)(3) tracks the statutory time frame of 90 days for applicants who hold licenses in other states.

Provisional licensees are required to practice under the supervision of a supervisor who holds the same type of license as the provisional licensee except for provisional licenses issued under subsection (a)(1)(i) and (2)(i) as these individuals have already met all of the requirements for licensure.

Subsection (b) delineates the documentation that shall be submitted in connection with a provisional license. Given the statutory language that required an application and a fee to issue provisional licenses, the Board was unable to promulgate a regulation enabling the issuance of provisional licenses in a final-omitted rulemaking as requested by the Pennsylvania Speech-Language-Hearing Association. Subsection (d) delineates the documentation required for extension requests.

§ 45.24. Certification to utilize neurophysiologic intraoperative monitoring

Proposed § 45.24 stems from the addition of section 8.1 of the act requiring audiologists to obtain certifications from the Board to utilize IOM. Subsection (b)(1) tracks the requirement in section 8.1(1) of the act for current IOM certification from a National accrediting body recognized by the Board. Like the Board's proposed practice to post a list of acceptable accrediting agencies on its web site, the Board proposes to do the same with these accrediting bodies. Currently, the Board believes that the following certifications satisfy the requirements of the act: the Board Certified Specialist in Intraoperative Monitoring from the American Audiology Board of Intraoperative Monitoring; and Diplomat certification from the American Board of Neurophysiologic Monitoring. Subsection (b)(2) tracks the requirement in section 8.1(2) of the act for completion of doctoral level coursework, including neuroanatomy, neurophysiology and IOM from an accredited doctoral audiology program and clinical instruction in IOM. Applicants for certification have the affirmative burden of proving that they possess the qualifications to hold IOM certification.

§ 45.102. Code of Ethics

The Board proposes to delete references to teachers of the hearing-impaired from this section.

§ 45.103. Unprofessional conduct

In addition to proposing to delete all references to teachers of the hearing-impaired, the Board proposes to add three additional provisions from Act 106. Paragraph (22) tracks the requirement in section 8.1 of the act that audiologists possess certification from the Board to utilize IOM. Paragraph (23) tracks the requirement in section 12 of the act (63 P.S. § 1712) that licensees refer patients with suspected medical conditions beyond the licensee's scope for medical evaluation by a physician. Paragraph (24), which requires licensees to utilize universal precautions, is modeled after the Center for Disease Control's recommendation for all health care providers as well as the standard in the professions enunciated by ASHA and AAA.

Subchapter E. Assistants

All references to teachers of the hearing-impaired are proposed to be deleted from this subchapter, including those in §§ 45.301, 45.305, 45.307 and 45.308.

§ 45.304. Minimum education, experience and training requirements

In addition to proposing to delete all references to teachers of the hearing-impaired from this section, the reference to the Council on Education of the Deaf is proposed to be deleted from § 45.304(a)(1) (relating to minimum education, experience and training requirements). The references to "speech-language and hearing" are proposed to be updated to "speech-language pathology and audiology" throughout § 45.304(a).

§ 45.401. *Definitions*

The reference to teachers of the hearing-impaired are proposed to be deleted from the definition of “licensee” in this section.

Subchapter G. Continuing education

All references to continuing education for teachers of the hearing impaired are proposed to be deleted throughout this subchapter.

Fiscal Impact and Paperwork Requirements

This proposed rulemaking will increase the initial and biennial renewal fees for licensees of the Board and adopt a new fee for the issuance of provisional licenses. There are currently approximately 7,525 actively licensed speech-language pathologists and 981 actively licensed audiologists (a total of approximately 8,506 licensees) who will be required to pay \$19 more to renew their licenses. Additionally, approximately 650 applicants apply for licensure annually. The vast majority of licensees and applicants are considered to be working for small businesses. They will be impacted because their license fees will increase. The proposed rulemaking should not have other fiscal impact on the private sector, the general public or political subdivisions of this Commonwealth.

The proposed rulemaking will require the Board to alter some of its forms to reflect the new fee and create new applications for provisional licenses and IOM certifications. Audiologists seeking IOM certification will be required to file additional paperwork with the Board. However, this proposed rulemaking will not create other additional paperwork for the regulated community or the private sector.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 19, 2016, the Board and the Commissioner submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

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

P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the Commissioner, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking in writing to Judith Pachter Schulder, Counsel, State Board of Examiners in Speech-Language Pathology and Audiology, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-STRegulatory@Counselpa.gov within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-6803 (Fees; General Revisions) when submitting comments.

IAN J. HARLOW,
Commissioner

Bureau of Professional and Occupational Affairs

DAVID W. STEIN, PhD, CCC-SLP,
Chairperson

State Board of Examiners in Speech-Language Pathology and Audiology

Fiscal Note: 16A-6803. (1) Professional Licensure Augmentation Account; (2) Implementing Year 2015-16 is -\$0; (3) 1st Succeeding Year 2016-17 is -\$3,700; 2nd Succeeding Year 2017-18 is -\$300; 3rd Succeeding Year 2018-19 is -\$5,200; 4th Succeeding Year 2019-20 is -\$300; 5th Succeeding Year 2020-21 is -\$5,200; (4) 2014-15 Program—\$237,000; 2013-14 Program—\$209,000; 2012-13 Program—\$203,000; (7) Professional and Occupational Affairs (R); (8) recommends adoption. Eliminating the license for teachers of the hearing impaired will result in a loss of fee revenue for the Board. However, increases to the application and biennial renewal fees for all speech-language pathologists and audiologists are necessary to cover current and future year Board expenses.

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
SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL**

§ 43b.16a. Schedule of civil penalties—audiologists[, speech-language pathologists and teachers of the hearing impaired] and speech-language pathologists.

STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE [AND HEARING] PATHOLOGY AND AUDIOLOGY

<i>Violation under</i>	<i>Title / Description</i>	<i>Civil Penalty</i>
63 P.S. [Section] § 1706	Practicing as an audiologist[,] or speech-language pathologist[, or teacher of the hearing impaired] on a lapsed license.	0-12 months—\$50 per month Over 12 months—formal action 2nd offense—formal action
49 Pa. Code § 45.501	Failure to complete 20 hours of approved continuing education during a biennial renewal period.	1st offense—\$100 per clock hour 2nd offense—formal action

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

Subchapter A. GENERAL PROVISIONS

§ 45.1. Fees.

The following are the fees [set] charged by the State Board of Examiners in Speech-Language [and Hearing] Pathology and Audiology:

- (1) Initial license[—speech-language pathologist, audiologist or teacher of the hearing impaired] [\$20] \$50
(2) Certification of licensure..... \$15
(3) Biennial renewal of license [\$46] \$65
[(4) Examination for teacher of the hearing impaired..... \$87]
(4) Provisional license..... \$50
(5) Provisional license renewal..... \$30
(6) Certification to utilize neurophysiologic intraoperative monitoring \$15
[(5)] (7) Application for continuing education approval (other than preapproved provider)..... \$40

§ 45.2. Definitions.

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

ASHA—The American Speech-Language-Hearing Association.

Act—The Speech-Language [and Hearing] Pathologists and Audiologists Licensure Act (63 P.S. §§ 1701—1719).

Biennial renewal period—The period from August 1 of an even-numbered year to July 31 of the next even-numbered year.

Board—The State Board of Examiners in Speech-Language [and Hearing of the Commonwealth] Pathology and Audiology.

* * * * *

Licensees—Speech-language pathologists[, audiologists and teachers of the hearing-impaired] and audiologists.

Practice of audiology—[The evaluation, counseling, habilitation and rehabilitation of individuals whose communication disorders center in whole or in part in the hearing function, including the prevention, identification, examination, diagnosis and treatment of conditions of the human auditory system, and including the examination for, and adapting and fitting of amplification or assistive devices.] The application of principles, methods and procedures related to disorders of the auditory and vestibular systems including the areas of audiology practice in section 3 of the act (63 P.S. § 1703) and:

(i) Provided there is no conflict with the act or this chapter, engaging in acts within the definition of the “practice of audiology” in the following documents:

(A) ASHA’s Scope of Practice in Audiology statement developed by the Coordinating Committee for

ASHA Vice President for Professional Practices in Audiology and approved in 2003 by the Legislative Council.

(B) The American Academy of Audiology’s Scope of Practice document developed in 1992, and updated in 1996 and 2004.

(C) The Academy of Doctors of Audiology’s (ADA) Scope of Practice statement jointly crafted by the ADA and the Audiology Foundation of America (July 31, 2003).

(ii) Utilizing neurophysiologic intraoperative monitoring by an audiologist holding certification from the Board under § 45.24 (relating to certification to utilize neurophysiologic intraoperative monitoring) and upon delegation from and under the overall direction of a physician.

Practice of speech-language pathology—[The evaluation, counseling, habilitation and rehabilitation of individuals whose communicative disorders involve the functioning of speech, voice or language, including the prevention, identification, examination, diagnosis and treatment of conditions of the human speech-language system, and including the examination for, and adapting and use of assistive devices.] 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, including the acts in section 3 of the act and the following:

(i) Screening individuals for hearing loss or middle ear pathology using conventional pure-tone air conduction methods, otoacoustic emissions screening and screening tympanometry.

(ii) Providing intervention and support services for children and adults diagnosed with speech-language or auditory processing disorders.

(iii) Using instrumentation to observe, collect data and measure parameters of communication and swallowing or other upper aerodigestive functions.

(iv) Developing, selecting, and implementing multimodal augmentative and alternative communication systems, including aided and unaided strategies.

(v) Providing amplification services to children and adults with hearing loss.

(vi) Selecting, fitting and establishing effective use of devices for communication and swallowing other than hearing amplification.

(vii) Providing nonmedical treatment and instruction on modification or enhancement of communication performance.

(viii) Evaluating the functionality of amplification devices.

(ix) Providing auditory training involving individuals with hearing loss.

(x) Teaching and implementing techniques to assure safety and efficiency in swallowing.

(xi) Provided there is no conflict with the act or this chapter, engaging in acts within the definition of the "practice of speech-language pathology" developed by the ASHA's Ad Hoc Committee on the Scope of Practice in Speech-Language Pathology and approved by the ASHA Legislative Council in 2007.

[*Practice of teaching the hearing-impaired*—The evaluation and instruction in curriculum-based material and communication skills appropriate for individuals affected primarily by impaired hearing sensitivity, including the prevention, identification, assessment, diagnosis and remediation of conditions affecting the educational and vocational development of deaf or hearing-impaired persons, and including the examination for the adapting and use of assistive devices.

Practicum—

(i) All aspects of a training program related to the practice of speech-language pathology, audiology or teaching of the hearing-impaired which is recognized by an accredited academic institution, and which during the total practicum experience brings the student into direct contact with a person identified as having a communication or oral/motor problem, an individual, such as a family member, spouse or close friend, who has a significant personal relationship with a person identified as having a communication or oral/motor problem, and an allied professional for the purpose of providing services to a person identified as having a communication or oral/motor problem.

(ii) The term may include hours spent in externship, student teaching or directed clinical teaching experience.]

Provider—An agency, organization, institution, college, university, professional society, association or center approved by the Board to offer an organized continuing education course or program.

[*Qualified training supervisor*—A person supervising a student in practicum or an applicant in the year of supervised professional experience, and who also holds one of the following:

(i) A current Pennsylvania license in the appropriate area of specialization for the applicant or student.

(ii) Equivalent licensure in the appropriate area of specialization from a state with which the Board has reciprocity.

(iii) A current Certificate of Clinical Competence in speech-language pathology or audiology issued by the American Speech-Language and Hearing Association, or a current professional certificate issued by the Council on Education of the Deaf, whichever is applicable to the applicant's area of specialization and is a nonresident of this Commonwealth or is exempt from licensure under section 6(b)(2) of the act (63 P.S. § 1706(b)(2)).

YSPE—Year of supervised professional experience.]

Subchapter B. LICENSURE AND CERTIFICATION

§ 45.11. Licenses and certifications.

[(a)] The Board issues the following licenses and certifications:

(1) Speech-language pathologist license.

(2) Audiologist license.

(3) [Teacher of the hearing-impaired.] Provisional license as a speech-language pathologist.

(4) Provisional license as an audiologist.

(5) Certification for an audiologist to utilize neurophysiologic intraoperative monitoring.

[(b) The Board will issue a permanent certificate indicating initial licensure and a wallet card showing the current license period.]

§ 45.12. [Application] Licensure application procedures.

[(a) Upon request, the Board will furnish a candidate for licensure an application form, a copy of the act and a copy of this chapter.

(b) The applicant shall send to the Board, along with required fees, as provided by § 45.1 (relating to fees), and documentation, a complete, signed, dated and notarized application.

(c) The applicant shall file with the Board evidence that the applicant has:

(1) Met the educational requirements of § 45.17 or § 45.18 (relating to education requirements: master's degree or equivalent; and criteria for master's degree equivalent).

(2) Completed the practicum requirements of § 45.19 (relating to practicum).

(3) Completed the year of supervised professional experience requirements of § 45.20 (relating to YSPE).

(4) Has passed an examination approved by the Board.

(5) Is of good moral character.

(d) An applicant who wishes to apply for more than one license, specified in § 45.11(a) (relating to licenses), shall submit a separate application for each license.]

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

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

(1) *Speech-language pathologists*.

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

(ii) Completed 9 months of supervised professional experience requirements of § 45.20 (relating to supervised professional experience).

(iii) Passed an examination approved by the Board.

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

(2) Audiologists.

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

(ii) **Passed an examination approved by the Board.**

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

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

§ 45.13. **Renewal of license; inactive status of license; required continuing education.**

(a) **Unless renewed for the upcoming biennium, licenses issued under this subchapter expire at the end of the current biennium.**

(b) **[Biennial renewal forms and other forms and literature to be distributed by the Board will be forwarded to the last mailing address given to the Board by the licensee.] Licenses, provisional licenses, certifications and documentation from the Board will be sent to the address provided to the Board by the licensee. Whenever the licensee changes [his mailing] an address of record, the licensee shall notify the Board in writing within 10 days after making the address change.**

(c) **The licensee shall renew his license in the manner prescribed by the Board and pay the required fee, as provided by § 45.1 (relating to fees). Unless a licensee requests that a license be placed on inactive status, at the end of a biennial period it will be marked expired until it is renewed or reactivated.**

(d) **When a license is renewed after the expiration date, a late fee, as provided for by section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225), will be charged for each month or part of a month that the licensee has engaged in practice beyond the expiration date. A licensee who practices under an expired license may be subject to criminal prosecution under section 18 of the act (63 P.S. § 1718).**

(e) **A license that is not renewed at the end of a biennium will be marked expired unless a licensee who does not intend to practice in this Commonwealth [may make written request that his] requested that the license be placed on inactive status.**

(f) **A licensee who fails to [pay the biennial renewal fee] renew a license or who requests to be placed on inactive status will not be sent [biennial renewal forms for following biennial renewal periods unless the licensee requests the Board, in writing, to reactivate the license] Board notifications until the license is renewed or reactivated.**

(g) **[Beginning with the renewal period commencing August 1, 2008, an application for renewal of a speech-language pathologist, audiologist or teacher of the hearing impaired] An application for renewal of a license will not be granted unless the licensee has certified that the licensee has completed the required continuing education hours under § 45.501 (re-**

lating to credit hour requirements). If requested by the Board, an application for renewal must also include the documentation required by § 45.504 (relating to reporting completion of continuing education).

(h) **An application for reactivation of an inactive or lapsed [speech-language pathologist, audiologist or teacher of the hearing impaired license must] license shall also include the documentation required [by § 45.504 (relating to reporting completion of continuing education) under § 45.504 for the preceding biennial period.**

§ 45.14. Reactivation of licensure status.

[A licensee who has allowed his licensure status to lapse may apply to the Board for reactivation of licensure status by satisfying the requirements of paragraph (1) on forms prescribed by the Board.

(1) A licensee applying for reactivation of licensure status is required to pay the current registration fee and submit a notarized affidavit setting forth the period of time in which the licensee did not practice in this Commonwealth.

(2) A licensee who seeks to reactivate his licensure status will not be assessed a late renewal fee for the preceding biennial registration periods in which the licensee did not engage in practice in this Commonwealth.]

(a) A licensee who wishes to reactivate an expired or inactive license shall apply for reactivation, pay the current registration fee and submit a verification of nonpractice in this Commonwealth.

(b) A licensee shall pay a late renewal fee for the preceding biennial registration periods in which the licensee engaged in practice in this Commonwealth while the license was expired or inactive.

[(3)] (c) With the exception of individuals exempt from licensure under section 6(b)(2) of the act (63 P.S. § 1706(b)(2)), [a licensee whose licensure status has lapsed due to the failure to register biennially with the Board, is prohibited from practicing in this Commonwealth unless the licensure status is reactivated. If a licensee who is not exempt from licensure engages in] licensees who practice in this Commonwealth during a period in which the licensees' registration is not renewed[, the licensee is required to] shall pay a late fee of \$5 for each month or part of a month beyond the date specified for renewal, as provided in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225), in addition to the prescribed biennial renewal fee. The payment of a late fee does not preclude the Board from taking disciplinary action against a licensee for practicing in this Commonwealth without a current license.

[(4) A person who fails to renew his license within 5 years after the date of its expiration may not renew it, and it will not be restored, reissued or reinstated thereafter, but the person may apply and obtain a new license, if the person meets the requirements of the act.]

(d) A licensee whose license has lapsed, been suspended or placed on inactive status for more than 5 years shall demonstrate continued competency to reactivate the license by doing one of the following:

(1) Successfully complete the initial licensing examination approved by the Board.

(2) Successfully complete the required continuing education in § 45.501(a) (relating to credit hour requirements) for the biennial periods during which the license was lapsed, suspended or inactive.

(3) Provide evidence to the Board that the applicant has a license in good standing to practice speech-language pathology or audiology in another jurisdiction that has substantially similar requirements for licensure and has engaged in practice in the other jurisdiction at some period within the last 5 years.

§ 45.15. Duplicate [certificates] licenses.

[Duplicate license certificates and wallet cards will be issued only upon submission by the licensee of a notarized statement specifying the reason for the request—Fees as prescribed by the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. §§ 1401-101—1401-501) shall be charged for duplicate wall certificates.]

A duplicate license will be issued only upon payment of the fee as prescribed by the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. §§ 1401-101—1401-501).

§ 45.16. Display of license.

The licensee shall post the [original certificate] license and, if applicable, certification in a conspicuous place in the office or place of business of the licensee.

§ 45.17. Education requirements[: master's degree or equivalent].

(a) *Speech-language pathologist.* An applicant for licensure as a speech-language pathologist shall provide evidence of holding a master's or doctoral degree in speech-language pathology [or its equivalent from an accredited academic institution] from an academic program accredited by an accrediting agency approved by the Board. The Board will make available a list of approved accrediting agencies on its web site.

(b) *Audiologist.* An applicant for licensure as an audiologist shall provide evidence of holding a [master's degree in audiology or its equivalent from an accredited academic institution] doctoral degree in audiology from an academic program approved by an accrediting agency approved by the Board and the United States Department of Education or the Council for Higher Education Accreditation. The Board will make available a list of approved accrediting agencies on its web site.

[(c) *Teacher of the hearing-impaired.* An applicant for licensure as a teacher of the hearing-impaired shall provide evidence of holding a master's degree in teaching of the hearing-impaired or its equivalent from an accredited academic institution.]

§ 45.18. [Criteria for master's degree equivalent] (Reserved).

[(a) *Speech-language pathologists.*

(1) An applicant for licensure as a speech-language pathologist seeking to demonstrate that he holds a master's degree equivalent shall submit evidence to the Board of the following:

(i) Possession of a bachelor's degree from an accredited academic institution.

(ii) Completion of a program of study comprised of 39 graduate semester hours distributed as follows: 6 hours in normal processes of speech, language and hearing; 20 hours in the nature of speech-language disorders, evaluation and treatment; 3 hours in case management; 3 hours in audiology; and 3 hours in habilitation and rehabilitation of speech-language problems associated with hearing-impairment; 4 hours allocated among the areas listed in this paragraph or earned in other course work related to speech-language pathology.

(2) Graduate semester hours in practicum may not be counted toward satisfying the 39 semester-hour requirement.

(b) *Audiologists.*

(1) An applicant for licensure as an audiologist, seeking to demonstrate that he holds a master's degree equivalent, shall submit evidence to the Board of the following:

(i) Possession of a bachelor's degree from an accredited academic institution.

(ii) Completion of a program of study comprised of 39 graduate semester hours distributed as follows: 6 hours in normal processes of speech, language and hearing; 12 hours in pathologies of the auditory system and assessment of auditory disorders; 8 hours in habilitation and rehabilitation procedures for problems associated with hearing-impairment; 3 hours in conservation of hearing; 3 hours in speech-language pathology disorders; and 3 hours in case management; 4 hours allocated among the areas listed in this paragraph or earned in other course work related to audiology.

(2) Graduate semester hours in practicum may not be counted toward satisfying the 39 semester-hour requirement.

(c) *Teachers of the hearing-impaired.*

(1) An applicant for licensure as a teacher of the hearing-impaired, seeking to demonstrate that he has a master's degree equivalent, shall submit evidence to the Board of the following:

(i) Possession of a bachelor's degree from an accredited academic institution.

(ii) Completion of a program of study comprised of 39 graduate semester hours distributed as follows: 12 hours in curriculum and instruction, 12 hours in language and communication, 3 hours in foundations and 3 hours in speech science and audiology; 9 hours allocated among the areas listed in this paragraph or earned in other course work related to teaching of the hearing-impaired.

(2) Graduate semester hours in practicum may not be counted toward satisfying the 39 semester-hour requirement.]

§ 45.19. [Practicum] (Reserved).

[(a) General requirements are as follows:

(1) An applicant for licensure shall complete a practicum in the approximate specialty consisting of a minimum of 375 hours.

(2) Two hundred fifty clock hours of the practicum shall be obtained at the graduate level in the area in which licensing is sought.

(3) Practicum experience shall include a minimum of 50 clock hours in each of at least two distinctly different environments where different professional experience would be obtained.

(4) Two hundred fifty clock hours of the practicum shall be supervised by a person who is a qualified training supervisor in the student's area of specialization.

(5) The following activities shall be directly supervised:

(i) At least 50% of all diagnostic evaluations (screening services in speech-language and hearing are considered diagnostic evaluations).

(ii) At least 25% of all treatment, instruction, conferencing and counselling.

(6) A student in practicum may not do one or more of the following unless the student has the prior approval of the qualified training supervisor who is fully responsible for the action:

(i) Provide diagnostic conclusions to a person.

(ii) Initiate treatment, instruction, conferencing or counselling.

(iii) Make a referral to allied professionals for additional evaluation.

(iv) Recommend the trial use or purchase of a prosthetic device such as a hearing aid.

(v) Terminate treatment.

(vi) Take other action of comparable significance.

(7) The applicant shall submit attestations of the qualified training supervisors on a form provided by the Board as evidence of the completion of the practicum.

(b) Practicum in speech-language pathology shall include the following:

(1) Prior to beginning the practicum, the applicant shall complete 25 clock hours of observation in the applicant's specialty area. Observation through use of videotapes is acceptable. These hours of observation may be counted toward the total required clock hours needed to complete the practicum.

(2) Twenty clock hours in evaluation of children with speech disorders, including disorders of articulation, voice and fluency.

(3) Twenty clock hours in evaluation of adults with speech disorders, including disorders of articulation, voice and fluency.

(4) Twenty clock hours in evaluation of children with language disorder.

(5) Twenty clock hours in evaluation of adults with language disorders.

(6) Twenty clock hours in treatment of children with speech disorders, including disorders of articulation, voice and fluency.

(7) Twenty clock hours in treatment of adults with speech disorders, including disorders of articulation, voice and fluency.

(8) Twenty clock hours in treatment of children with language disorders.

(9) Twenty clock hours in treatment of adults with language disorders.

(10) Thirty-five clock hours in audiology, including 15 clock hours in evaluation and screening and 15 clock hours in habilitation and rehabilitation.

(c) Practicum in audiology shall include the following:

(1) Prior to beginning the practicum, the applicant shall complete 25 clock hours of observation in the applicant's specialty area. Observation through the use of videotapes is acceptable. These hours of observation may be counted toward the total required clock hours needed to complete the practicum.

(2) Forty clock hours in evaluation of hearing in children.

(3) Forty clock hours in evaluation of hearing in adults.

(4) Forty clock hours in the selection and use of amplification and assistive devices for children.

(5) Forty clock hours in the selection and use of amplification and assistive devices for adults.

(6) Twenty clock hours in the treatment of hearing disorders in children and adults. Treatment refers to clinical management and counseling, including auditory training, speech reading and speech and language services for the hearing-impaired.

(7) Thirty-five clock hours in speech-language pathology unrelated to hearing impairment, including 15 clock hours in evaluation and screening and 15 clock hours in treatment.

(d) Practicum in the teaching of the hearing-impaired shall include the following:

(1) Prior to the beginning of the practicum, the applicant shall complete 125 hours of directed observation and participation with individuals of various age levels, including at least one exposure to individuals 16 years of age or older. One hundred twenty-five hours of observation and participation may be credited toward the 375 hours of practicum.

(2) Two hundred fifty hours in teaching of the hearing-impaired comprised of experience in individual and group evaluation and instruction, providing evaluation and instruction in curriculum-based material and communication skills appropriate for individuals whose cognitive and educational development have been affected primarily by impaired hearing sensitivity, participation in evaluation and assessment teams and family conferencing or counselling.

(e) The applicant shall submit the attestation of the qualified training supervisor on a form supplied by the Board that the applicant has fulfilled the criteria of the practicum.]

§ 45.20. [YSPE] Supervised professional experience.

[(a) Practicum requirements shall be fulfilled prior to the start of the YSPE.

(b) The applicant shall begin the YSPE within 4 years of completing the education and practicum requirements, and shall complete 1,080 hours in 2 consecutive years.]

(a) The applicant shall begin the supervised professional experience within 4 years of conferral of the degree, and shall complete no less than 1,260 hours in no less than 9 months, but no more than 2 years.

[(c)] (b) The Board may waive the requirements in subsection [(b)] (a) in the case of demonstrated undue hardship, military service or other good cause shown by the applicant.

[(d) The applicant shall complete the YSPE under the supervision of a qualified training supervisor who will not supervise more than three applicants completing their YSPE at any one time. Applicants may not work under the direction of more than two qualified training supervisors at one time.

(e) An applicant completing the YSPE may not hold himself out to be a licensed professional.]

(c) The applicant shall complete the supervised professional experience under the supervision of a currently licensed speech-language pathologist in the state or jurisdiction where the supervised professional experience is being obtained.

(1) The supervisor may not supervise more than three applicants completing their supervised professional experience at any one time.

(2) Applicants may not work under the direction of more than two supervisors at one time.

[(f)] (d) The applicant shall inform individuals under his care that he is completing the [YSPE] supervised professional experience and is working under the supervision of a licensed speech-language pathologist.

[(g)] (e) An applicant shall spend at least 80% of each week in direct client contact related to [:] assessment, nonmedical diagnosis, evaluation, screening, habilitation, rehabilitation, consulting, recordkeeping or other duties appropriate to a bona fide program of clinical work. No more than 50% of the applicant's time may be spent conducting screening. Clinical residents who teach, conduct research, perform administrative tasks or engage in other activities not related to direct client contact may not apply the time devoted to these activities toward meeting the [YSPE] supervised professional experience requirement.

[(h) During the YSPE] (f) During the supervised professional experience, the applicant shall routinely consult with the [qualified training] supervisor for evaluation of the applicant's performance in professional employment. These consultations shall occur at least once a month and shall include review of the applicant's performance in regard to one or more of the following:

- (1) Clinical treatment or evaluation.
- (2) Changes in the communication behaviors of persons served by the applicant.
- (3) Clinical records, diagnostic reports, treatment records, correspondence, plans of treatment and summaries of clinical conferences.
- (4) Staff conferences and interaction with allied professionals, colleagues and clients and their representatives.
- (5) Contributions to professional meetings and publications and participation in other professional growth opportunities.
- (6) Other matters related to the applicant's knowledge, skills and abilities to practice.

[(i) During the YSPE] (g) During the supervised professional experience, the applicant shall complete at least 36 supervised activities as follows:

- (1) A minimum of one supervised activity shall be completed per month.
- (2) Each of a minimum of 18 activities shall meet the following criteria. The activities shall:
 - (i) Be directly supervised and involve the assessment, nonmedical diagnosis, evaluation, screening, habilitation and rehabilitation of clients.
 - (ii) Be at least 1 hour in duration.

(3) No more than 6 hours of direct supervision activities may be completed in 1 day.

(4) At least six direct supervision activities shall be completed during each third of the [YSPE] supervised professional experience.

(5) Applicants fulfilling the [YSPE] supervised professional experience at more than one site shall complete at least one direct supervision activity at each site during each of the three segments of the [YSPE] supervised professional experience.

[(j) The applicant shall submit the attestation of the qualified training supervisor, on a form supplied by the Board, that the applicant has fulfilled the criteria of the YSPE.]

(h) The supervisor shall attest that the applicant has fulfilled the criteria of the supervised professional experience.

[(k)] (i) The final decision as to whether the applicant has satisfactorily met the conditions of the [YSPE shall be] supervised professional experience is within the discretion of the Board.

§ 45.21. Waivers.

The Board will waive the education, experience and examination requirements of this subchapter for an applicant who:

- (1) Holds a [current certification or license] currently valid license to practice speech-language pathology or audiology in a state which has standards determined by the Board to be at least equal to those for licensure in this Commonwealth. The applicant shall file an application with the Board, and shall cause the appropriate agency in the state of [certification or] licensure to submit to the Board a letter attesting to the applicant's good standing.

(2) Holds a current certificate of clinical competence from the Council [**of Professional Standards of the American Speech-Language and Hearing Association (ASHA)**] for Clinical Certification of ASHA. The applicant shall file an application with the Board, and shall cause ASHA to submit to the Board certification of the applicant's status.

[(3) Holds a current professional certificate issued by the Council on Education of the Deaf (CED) in compliance with its standards for the certification of teachers of the hearing-impaired. If the certificate was issued under CED standards in effect prior to September 1, 1987, the applicant shall present evidence of having an additional ten graduate academic credits which are appropriate to the field of the teaching of the hearing-impaired. The applicant shall file an application with the Board, and shall cause the CED to submit to the Board certification of the applicant's status.

(4) Earned a bachelor's degree, as of February 19, 1985, with a major, as appropriate, in speech-language pathology, audiology or teaching of the hearing-impaired from an accredited college or university, and was employed in the appropriate field as a speech-language pathologist, audiologist or teacher of the hearing-impaired for at least 9 consecutive months during the period February 19, 1982—February 19, 1985. The applicant shall file an application with the Board, and shall cause the degree-awarding institution and the applicable employer to submit to the Board certification of degree and certification of employment status. An applicant who was self-employed during the applicable period shall so certify.]

(3) Is a current practitioner who falls within the exemption in section 7(c) of the act (63 P.S. § 1707(c)), earned a bachelor's degree in speech-language pathology or a master's degree in audiology from an accredited college or university as of February 19, 1982, and was employed as a speech-language pathologist or audiologist for at least 9 consecutive months during the period February 19, 1982—February 19, 1985. The applicant shall file an application with the Board, and shall provide documentation evidencing completion of the degree and employment as a speech-language pathologist or audiologist.

§ 45.22. Foreign-trained applicants.

(a) **Speech-language pathologist.** To apply for licensure as a **speech-language pathologist**, the foreign-trained applicant shall, before examination, submit evidence satisfactory to the Board [**on forms provided by the Board**] that the applicant meets the following requirements:

- (1) Is of good moral character.
- (2) Has completed educational requirements substantially equivalent to [**§ 45.17 or § 45.18 (relating to education requirements: master's degree or equivalent; and criteria for master's degree equivalent) and the practicum requirements substantially equivalent to § 45.19 (relating to practicum)**] **§ 45.17(a) (relating to education requirements)**. The Board will accept a credential evaluation done by a recognized and accredited credential evaluation agency approved by the Board as proof that the foreign-trained applicant has completed these requirements.

(3) Has completed [**the year**] at least **9 months** of supervised professional experience as provided by § 45.20 (relating to [**YSPE**] supervised professional experience).

[(b) **The foreign-trained applicant may be licensed by the Board, if he has complied with subsection (a) and has passed the licensure examination.**]

(b) **Audiologist.** To apply for licensure as an audiologist, a foreign-trained applicant shall, before examination, submit evidence satisfactory to the Board that the applicant meets the following requirements:

(1) Is of good moral character.

(2) Has completed educational requirements substantially equivalent to § 45.17(b). The Board will accept a credential evaluation done by a recognized and accredited credential evaluation agency approved by the Board as proof that the foreign-trained applicant has completed these requirements.

(Editor's Note: Sections §§ 45.23 and 45.24 are new and printed in regular type to enhance readability.)

§ 45.23. Provisional licenses.

(a) The following applicants may be issued a provisional license:

(1) *Speech-language pathologist.*

(i) Applicants for licensure who have completed the requirements in § 45.12(b)(1) (relating to licensure application procedures). A provisional license granted under this subparagraph will be valid for 6 months from the date the application for licensure is submitted to the Board.

(ii) Applicants who are completing the supervised professional experience necessary to receive an ASHA Certificate of Clinical Competence. A provisional license granted under this subparagraph will be valid for 18 months and may be renewed one time under section 7(d) of the act (63 P.S. § 1707(d)).

(2) *Audiologists.*

(i) Applicants for licensure who have completed the requirements in § 45.12(b)(2). A provisional license granted under this subparagraph will be valid for 6 months from the date the application for licensure is submitted to the Board.

(ii) Post-doctoral graduates completing additional post-graduate professional experience. A provisional license granted under this subparagraph will be valid for 18 months and may be renewed one time under to section 7(d) of the act.

(3) *Licensees from other states.* Individuals who hold a valid license in another state to practice speech-language pathology or audiology who apply for licensure in this Commonwealth may also apply for a provisional license. A provisional license granted under this paragraph will be valid for 90 days.

(b) An applicant seeking a provisional license shall submit the following:

(1) An application for a provisional license and the fee in § 45.1(a)(4) (relating to fees).

(2) In addition to meeting the requirements of subsection (b)(1), an applicant for a provisional license under subsection (a)(1)(ii) or (2)(ii) shall also submit:

- (i) A letter describing the applicant’s plans for completing the professional experience.
- (ii) A transcript.

(A) Speech-language pathologist applicants’ transcripts must evidence completion of the applicant’s didactic education.

(B) Audiologist applicants’ transcripts must evidence completion of didactic and clinical education.

(3) In addition to meeting the requirements of paragraph (1), an applicant for a provisional license under subsection (a)(1)(i), (2)(i) or (3) shall also submit an application for licensure and the accompanying fee in § 45.1(a)(1).

(c) Except for provisional licenses granted under subsection (a)(1)(i) and (2)(i), provisional licensees shall practice only under supervision of a supervisor who holds the same type of license as the provisional licensee and, if the provisional licensee does not hold a graduate degree, who is physically present in the area or unit where the provisional licensee is practicing.

(d) An applicant who was issued a provisional license under subsection (a)(1)(ii) seeking an extension of the provisional license shall provide a detailed written explanation of the reason the extension is requested and the status of applicant’s supervised professional experience.

§ 45.24. Certification to utilize neurophysiologic intraoperative monitoring.

(a) Prior to utilizing neurophysiologic intraoperative monitoring, an audiologist shall obtain certification from the Board.

(b) Applicants shall be granted certification by the Board upon submission of documentation evidencing one of the following:

(1) Current certification from the American Board of Neurophysiologic Monitoring, the American Audiology Board of Intraoperative Monitoring or another National certifying organization approved by the Board.

(2) Completion of the doctoral level coursework, including neuroanatomy, neurophysiology and other neurophysiologic intraoperative monitoring, from an accredited doctoral audiology program and clinical instruction in neurophysiologic intraoperative monitoring that meets the requirements of 8.1(2) of the act (63 P.S. § 1708.1(2)). The applicant has the affirmative burden of proving that these requirements are met.

(c) The Board will make available a list of approved certifying organizations on its web site.

Subchapter C. STANDARDS OF PRACTICE AND CONDUCT

§ 45.102. Code of Ethics.

(a) *General.* The Board is empowered by section 5(2) of the act (63 P.S. § 1705(2)) to promulgate a Code of Ethics for speech-language pathologists[, **audiologists and teachers of the hearing-impaired**] and audiologists, and the Board finds that the following rules are essential for establishing and maintaining stringent standards of professional conduct and for protecting the public interest, the Board has established the following Code of Ethics. A violation of this code constitutes unprofessional conduct under § 45.103 (relating to unprofessional con-

duct) or, as applicable, fraud or deceit under § 45.104 (relating to fraud or deceit), and subjects the violator to appropriate disciplinary action.

(b) *Preamble.*

(1) The preservation of the highest standards of integrity is vital to the successful discharge of the professional responsibilities of speech-language pathologists[, **audiologists and teachers of the hearing-impaired**] and audiologists. To this end, the Board has established this Code of Ethics to safeguard the public health, safety and welfare and to assure that speech-language and hearing services of the highest possible quality are available to the people of this Commonwealth. A violation of a provision of the Code of Ethics constitutes unprofessional conduct subject to disciplinary action. Accordingly, failure to specify a particular responsibility or practice in the code should not be construed as a deliberate omission.

(2) The fundamental rules of ethical conduct are described in the following categories:

(i) *Principles of Ethics.* Seven principles serve as the basis for the ethical evaluation of professional conduct and form the underlying moral basis for the Code of Ethics. Speech-language pathologists[, **audiologists and teachers of the hearing-impaired**] and audiologists, as defined in the act, shall observe these principles as affirmative obligations under all conditions of professional activity.

(ii) *Ethical proscriptions.* Ethical proscriptions are formal statements of prohibitions that are derived from the Principles of Ethics.

(c) *Principle of Ethics I.*

(1) Because speech-language pathologists[, **audiologists and teachers of the hearing-impaired**] and audiologists provide nonmedical and nonsurgical services, medical diagnosis and medical treatment by these persons are specifically to be considered unethical and illegal.

* * * * *

§ 45.103. Unprofessional conduct.

As used in section 10(5) of the act (63 P.S. § 1710(5)), the term “unprofessional conduct” includes[, **but is not limited to,**] the following types of conduct:

(1) Practicing as a speech-language pathologist[, **an audiologist or a teacher of the hearing-impaired**] or an audiologist with a license that has lapsed or that has been suspended or revoked.

(2) Knowingly aiding or abetting a person who is not licensed or exempted from licensure by the act to practice as a speech-language pathologist[, **an audiologist or a teacher of the hearing-impaired**] or an audiologist.

(3) Misrepresenting or concealing a material fact in seeking reinstatement of a license to practice as a speech-language pathologist[, **an audiologist or a teacher of the hearing-impaired**] or an audiologist.

(4) Delegating to a person duties that the speech-language pathologist[, **audiologist or teacher of the hearing-impaired**] or audiologist knows, or has reason to know, the person is not competent or authorized to perform.

(5) Committing an act of gross negligence, gross malpractice or gross incompetence, or repeated acts of negligence, malpractice or incompetence.

(6) Practicing as a speech-language pathologist[, an audiologist or a teacher of the hearing-impaired] or an audiologist while unable to do so with reasonable skill and safety because of illness, drunkenness, excessive use of controlled substances, chemicals or other types of materials or as the result of a mental or physical condition.

* * * * *

(21) Violating a State or Federal statute or a regulation promulgated thereunder in the *Pennsylvania Code* or the *Code of Federal Regulations* by a State or Federal agency that imposes a standard for practicing as a speech-language pathologist[, an audiologist or a teacher of the hearing-impaired] or an audiologist in this Commonwealth. The Board, in reaching a decision as to whether there has been a violation of a statute or regulation, will be guided by adjudications of the agency or court that administers or enforces the standard.

(22) Utilizing neurophysiologic intraoperative monitoring without possessing certification from the Board.

(23) Failing to refer patients who presented with suspected medical conditions beyond the licensee's scope of practice under the act for medical evaluation to an appropriate physician within 30 days.

(24) Failing to utilize universal precautions or proper infection control methods.

Subchapter E. ASSISTANTS

§ 45.301. Definitions.

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

Assistant—An individual who works under the direction and supervision of a licensed audiologist[, **speech-language pathologist or teacher of the hearing-impaired**] or **speech-language pathologist** and who meets the requirements in this subchapter.

Direct onsite supervision—The physical presence of a licensed audiologist[,] or **speech-language pathologist [or teacher of the hearing-impaired,]** in the facility or location where the assistant is working who is immediately available to exercise supervision, direction and control.

Interpreter—An individual whose sole function is to translate or to facilitate communication between persons via oral, cued speech, manual, total communication or written modes. For purposes of this subchapter, an interpreter is not considered an assistant.

Task—Work assigned or carried out as a part or subcomponent of the assistant's duties.

§ 45.304. Minimum education, experience and training requirements.

(a) Prior to the use of an assistant, the licensee shall obtain from the assistant evidence of one of the following:

(1) The assistant has completed 30 semester hours or the equivalent from an accredited institution of higher education in the area of speech-language [**and hearing**] **pathology and audiology** as outlined in the require-

ments as specified (nonaudited) for a certificate of clinical competence from the [**council of professional standards of the American Speech-Language and Hearing Association or the Council on Education of the Deaf**] **Council for Clinical Certification of the ASHA.**

(2) The assistant has practiced as an assistant in the area of speech-language [**and hearing**] **pathology and audiology** since at least June 8, 1989, under the supervision of an audiologist[, **speech-language pathologist or teacher of the hearing-impaired**] or **speech-language pathologist** licensed in this Commonwealth.

(3) The assistant has practiced as an assistant in the area of speech-language [**and hearing**] **pathology and audiology** since at least June 8, 1989, under the supervision of an audiologist[, **speech-language pathologist or teacher of the hearing-impaired**] or **speech-language pathologist** licensed in another state or the District of Columbia which has requirements for assistants substantially equivalent to the provisions of this subchapter.

(b) Prior to assigning a duty to an assistant, a licensee shall perform a task analysis of the expected duties of each assistant the licensee supervises, and shall then train the assistant, with an emphasis on competency-based skill acquisition, in accordance with this analysis. Training may be provided through formal coursework, workshops or directly supervised observation or practicum; training shall encompass all areas of activities which the assistant will perform. An assistant trained in one area [**audiology, speech-language pathology, teaching of the hearing-impaired**] (**audiology or speech-language pathology**) may not perform duties in another area, unless training in that area has been given. An assistant is not permitted to perform a duty for which, in the opinion of the licensed supervisor, the assistant is neither trained nor qualified. A minimum of 20 hours of practical training for each duty is required.

(c) A licensee shall familiarize an assistant with the standards of practice and conduct and the application of these ethics to each assistant's activities, codified at Subchapter C (relating to standards of practice and conduct).

§ 45.305. Functions and duties of assistants.

* * * * *

(b) The assistant may not engage in one or more of the following activities:

* * * * *

(7) Activities which require the formal education or training, and the skill and knowledge of a licensed audiologist[, **speech-language pathologist or teacher of the hearing-impaired**] or **speech-language pathologist.**

§ 45.307. Limitations.

(a) An assistant may not engage in activities reserved by the act to licensees of the Board, nor may the assistant hold himself out to the public, either by title or by description of services, as an audiologist[, **speech-language pathologist or teacher of the hearing-impaired**] or **speech-language pathologist.** Titles may be used only in conjunction with the appendage "assistant[;]," for example, "audiology assistant."

(b) A licensee may not assign, delegate or permit assistants to perform activities which require the formal education or training, and the skill and knowledge of a licensed audiologist[, **speech-language pathologist or teacher of the hearing-impaired**] or **speech-language pathologist**, including activities enumerated under § 45.305 (relating to functions and duties of assistants).

§ 45.308. **Exceptions.**

(a) A licensee is not required to file with the Board a list of support personnel who do not engage in activities requiring formal education or training in the field of speech-language and hearing, the skill and knowledge of a licensed audiologist[, **speech-language pathologist or a teacher of the hearing-impaired**] or **speech-language pathologist**, or the skill and knowledge of an assistant, as required under this subchapter.

(b) This subchapter does not limit the activities of a student who is pursuing a program of study supervised by a person licensed under the act which leads to a degree in audiology[, **speech-language pathology or teaching of the hearing-impaired**] or **speech-language pathology** in this Commonwealth.

Subchapter F. CHILD ABUSE REPORTING REQUIREMENTS

§ 45.401. **Definitions.**

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

* * * * *

Licensee—An audiologist[, **speech pathologist or teacher of the hearing impaired**] or **speech-language pathologist** licensed by the Board.

* * * * *

Subchapter G. CONTINUING EDUCATION

§ 45.501. **Credit hour requirements.**

(a) Each speech-language pathologist[, **audiologist or teacher of the hearing impaired**] or **audiologist** shall have completed 20 clock hours of continuing education per license during each preceding biennial renewal period[, **beginning with the renewal period commencing August 1, 2008**]. Excess clock hours may not be carried over to the next biennium.

(b) Up to 10 clock hours of approved continuing education credit per biennial renewal period may be granted on a case-by-case basis for services as a lecturer or speaker, and for publication of articles, books and research relating to the practice of speech-language pathology[, **audiology or teaching of the hearing impaired**] or **audiology**. A licensee seeking continuing education credit under this subsection shall submit a written request with a copy of the lecture, presentation, article, book or research and a fee for continuing education approval as required under § 45.1 (relating to fees). The request shall be submitted 180 days prior to the expiration of the biennial renewal period for which the licensee is seeking credit. An instructor of a program approved under § 45.505 (relating to approval of continuing education programs) will receive credit to the same extent that an attendee will receive credit and is not required to apply for approval under this subsection.

(c) Unless granted a waiver under § 45.502 (relating to exemption and waiver), the Board will not renew or reactivate any speech-language pathologist[, **audiologist or teacher of the hearing impaired**] or **audiologist** license until the continuing education requirement for the current biennial **renewal** period has been completed.

(d) A licensee may not receive credit for participation in substantially the same program more than once during a single renewal cycle.

§ 45.505. **Approval of continuing education programs.**

* * * * *

(d) The following programs are deemed approved for continuing education credit:

* * * * *

(3) Courses and programs offered for credit by academic programs in speech-language pathology[, **audiology or teaching of the hearing impaired**] or **audiology** associated with institutions accredited by any state's department of education or a regional commission on institutions of higher education.

* * * * *

§ 45.507. **Disciplinary action authorized.**

(a) A licensed speech-language pathologist[, **audiologist or teacher of the hearing impaired**] or **audiologist** who submits fraudulent continuing education records may be subject to discipline under section 10 of the act (63 P.S. § 1710).

(b) A licensed speech-language pathologist[, **audiologist or teacher of the hearing impaired**] or **audiologist** who fails to complete the required continuing education requirement within any biennial renewal period may be subject to discipline unless the licensee is exempt or has been granted a waiver under § 45.502 (relating to exemption and waiver).

(c) Notwithstanding discipline imposed by the Board under subsection (b), whether by formal disciplinary proceedings or by issuance of a citation as set forth in § 43b.16a (relating to schedule of civil penalties—audiologists[, **speech-language pathologists and teachers of the hearing impaired**] and **speech-language pathologists**), a licensed speech-language pathologist[, **audiologist or teacher of the hearing impaired**] or **audiologist** who has been found to be deficient in continuing education hours shall make up deficiencies within 6 months of receiving notice of the deficiency.

(d) Failure to make up deficient continuing education hours as required under subsection (c) may subject the licensed speech-language pathologist[, **audiologist or teacher of the hearing impaired**] or **audiologist** to further discipline under section 10 of the act.

[Pa.B. Doc. No. 16-1861. Filed for public inspection October 28, 2016, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On October 18, 2016, the Environmental Quality Board accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by the Darby Creek Valley Association, Inc., requests the amendment of 25 Pa. Code § 93.9g (relating to Drainage List G) to redesignate an unnamed tributary to Whetstone Run in Delaware County from Warm Water Fishery/Migratory Fishery waters to High Quality/Migratory Fishery waters.

Under 25 Pa. Code § 93.4d(a) (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters. The Department's assessment notice for this rulemaking petition will appear in a future issue of the *Pennsylvania Bulletin*.

The previously-referenced petition is available to the public by contacting the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, and is accessible on the Department's web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board (EQB)," then "2016 Meetings"; under "Meeting Agendas/Minutes/Handouts," see "October 18, 2016").

PATRICK McDONNELL,
Acting Chairperson

[Pa.B. Doc. No. 16-1862. Filed for public inspection October 28, 2016, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 131]

Preliminary Provisions; Replacement Costs for Wildlife Killed

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its September 19, 2016, meeting to amend § 131.8 (relating to replacement costs for wildlife killed) to increase replacement costs for osprey from \$200 to \$2,500.

The proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the September 19, 2016, meeting of the Commission. Comments can be sent until January 27, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

In accordance with the goals and objectives stated in the Management Plan for Osprey in Pennsylvania, 2015—2025, the osprey (*Pandion haliaetus*) has achieved a population level, geographical distribution and tolerance

of human activity that no longer meets the definition of a threatened species. As a result, the Commission proposes the removal of the osprey from the Commonwealth's threatened species list. Current replacement costs for osprey as a listed threatened species is \$5,000. Upon delisting, replacement costs for osprey will reduce to a default of \$200. Notwithstanding its proposal to delist, the Commission determined that the osprey necessitates further protection from unlawful takings in the form of increased replacement costs upon its effective delisting date. The Commission is proposing to amend § 131.8 to increase replacement costs for osprey from \$200 to \$2,500.

Section 925(i) of code (relating to jurisdiction and penalties) states that "[i]n addition to the fines and costs imposed for violations pursuant to subsection (b), the costs incurred by the commission for the replacement of the species involved in the violation shall be assessed by the magisterial district judge in such amount as is fixed by regulation of the commission." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to § 131.8 are proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 131.8 to increase replacement costs for osprey from \$200 to \$2,500.

3. Persons Affected

Persons who unlawfully take or kill ospreys within the Commonwealth will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

(Editor's Note: See 46 Pa.B. 6869 (October 29, 2016) for a related proposed rulemaking.)

Fiscal Note: 48-401. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 131. PRELIMINARY PROVISIONS

§ 131.8. Replacement costs for wildlife killed.

Under section 925(i) of the act (relating to jurisdiction and penalties), in addition to any fines and costs imposed for violations of the act and this title, any person who unlawfully kills or possesses wildlife may be assessed replacement costs according to the following minimum cost scale:

(1) *General class.*

(i) Each threatened or endangered bird or mammal, \$5,000.

(ii) Each bald eagle [or], golden eagle or osprey, \$2,500.

* * * * *

[Pa.B. Doc. No. 16-1863. Filed for public inspection October 28, 2016, 9:00 a.m.]

[58 PA. CODE CH. 133]
Wildlife Classification; Birds

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its September 19, 2016, meeting to amend § 133.21 (relating to classification of birds) to remove the osprey from the Commonwealth's list of threatened and endangered birds.

The proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the September 19, 2016, meeting of the Commission. Comments can be sent until January 27, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

In accordance with the goals and objectives stated in the Management Plan for Osprey in Pennsylvania, 2015—2025 (Plan), the osprey (*Pandion haliaetus*) has achieved a population level, geographical distribution and tolerance of human activity that no longer meets the definition of a threatened species under § 133.4 (relating to definitions). As of the 2016 nesting season, osprey populations have met the objectives of at least 50 total nesting pairs with a steady or increasing population, including at least 10 nesting pairs in each of 4 watersheds for the second consecutive comprehensive survey. As a result, the Commission is proposing to amend § 133.21 to remove the osprey from the Commonwealth's list of threatened and endangered birds. Upon delisting, ospreys will continue to be a protected species under the code and will continue to be afforded protection under the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—712). Commission staff will continue to implement the Plan and monitor osprey nests to ensure that this species does not regress toward endangerment.

Section 322(c)(8) of the code (relating to powers and duties of commission) specifically empowers the Commission to “[a]dd to or change the classification of any wild bird or wild animal.” Section 2167(a) of the code (relating to endangered or threatened species) states that “[t]he commission may, by regulation, add or remove any wild bird or wild animal native to this Commonwealth to or from the Pennsylvania native list of endangered or threatened species.” The amendments to § 133.21 are proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 133.21 to remove the osprey from the Commonwealth's list of threatened and endangered birds.

3. Persons Affected

Persons concerned with the protected status of the osprey within this Commonwealth will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

(Editor's Note: See 46 Pa.B. 6868 (October 29, 2016) for a related proposed rulemaking.)

Fiscal Note: 48-400. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 133. WILDLIFE CLASSIFICATION

Subchapter B. BIRDS

§ 133.21. Classification of birds.

The following birds are classified:

* * * * *

(2) *Threatened.*

[(i) **Osprey (*Pandion haliaetus*)**

(ii)] (i) Northern Harrier (*Circus cyaneus*)

[(iii)] (ii) Long-eared Owl (*Asio otus*)

[Pa.B. Doc. No. 16-1864. Filed for public inspection October 28, 2016, 9:00 a.m.]