

PROPOSED RULEMAKING

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 145]

Industrial Housing and Components

The Department of Community and Economic Development (Department), under section 5 of Industrialized Housing Act (act) (35 P. S. § 1651.15), proposes to amend Chapter 145 (relating to industrial housing and components). This rulemaking proposes to eliminate the exception for energy conservation for industrialized homes, adopt the model code requirements for energy efficiency bringing industrialized housing on par with the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103) and reduce the number of required inspections by the Department.

Introduction

The act authorizes the Department to promulgate rules and regulations to interpret and make specific the provisions of the act. Under section 5 of the act (35 P. S. § 1651.5), these rules and regulations are to be amended to “assure the health, safety and welfare of the people of Pennsylvania by requiring safe and sanitary industrial housing and shall include provisions imposing requirements reasonably consistent with recognized and accepted model codes.” The purpose of this proposed rulemaking is to provide parity with conventional housing constructed under the Pennsylvania Construction Code Act and industrialized housing constructed for other states. Adoption of model energy standards will improve energy efficiency in housing produced and allow manufacturers to utilize newer technology in designing heating and cooling systems.

Analysis

Proposed amendments to § 145.41 (relating to adoption of standards) add the ICC International Energy Conservation Code and the ICC International Residential Code as additional standards applicable to the industrialized housing and housing components for purposes of this chapter and to remove the energy conservation and stair geometry exceptions to the ICC International Building Code.

Proposed amendments to § 145.42 (relating to alternate standards) provide the International Energy Conservation Code and Pennsylvania’s Alternative Residential Energy Provisions as alternatives to § 145.41 with respect to energy efficiency. The ICC International Residential Code is deleted as an alternative because it will be adopted as a standard in § 145.41. The proposed amendment also provides alternate standards regarding stairway construction.

Proposed amendments to § 145.93 (relating to factory inspections; right of entry) replace the biannual inspection requirement with an annual inspection requirement.

Fiscal Impact

Commonwealth. While striving to reduce the number of required inspections per year at each plant, the Department estimates the total number of inspections will remain unchanged. This is, in part, a result of additional

production facilities seeking approval each year and increased inspections at warranted plants once granted the ability to focus Department inspection efforts.

Political subdivisions. There will be no fiscal impact on political subdivisions.

Public. Increased costs to the industry would be negligible. The majority of manufacturers presently exceeds the current provisions and builds homes that comply with the proposed standard. However, the current fees are low in comparison to other states and have not been increased since 1979.

Paperwork

The proposed rulemaking will not change existing paperwork requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 7, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Commerce and Economic Development Committee and the Senate Community and Economic Development Committee. A copy of this material is available to the public upon request.

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

Effective Date/Sunset Date

The proposed rulemaking will become effective 60 days after final-form publication in the *Pennsylvania Bulletin*. The regulations are monitored on a regular basis and updated as needed.

Contact Person

Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to Matthew Speicher, Assistant Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7317; or Mark Conte, Chief, Housing Standards Division, Office of Community Development, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7416 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

DENNIS YABLONSKY,
Secretary

Fiscal Note: 4-85. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

Subpart C. COMMUNITY DEVELOPMENT AND HOUSING

CHAPTER 145. INDUSTRIAL HOUSING AND COMPONENTS

STANDARDS

§ 145.41. Adoption of standards.

(a) The following codes, which relate to the design, materials and method of construction of buildings, are adopted as the standards applicable to the industrialized housing and housing components for purposes of this chapter:

(1) The ICC International Building Code[, with the following exceptions:

(i) The specific article on energy conservation.

(ii) A manufacturer may elect to utilize the 1993 BOCA National Building Code, section 1014.6, exception #8, with regard to stair geometry (rise & run).]

* * * * *

(4) The International Energy Conservation Code.

(5) The National Electric Code (NFPA No. 70).

(6) The ICC International Residential Code (for one and two family dwellings and town homes).

(b) Except as provided in § 145.43 (relating to amendment policy), the codes [shall] must be the latest edition [including supplements]. The effective date of all code changes [or supplements shall] must be in accordance with §§ 145.44 and 145.122(b) (relating to adoption and effective dates—code amendments; and effective date).

(c) [Insulation requirements shall have the following minimum thermal resistance (“R” values) through building sections—the total “R” value of a building section may be calculated by simply adding the individual “R” values of a building components—with the exception that the stated “R” value of one assembly, such as roof/ceiling, or wall or floor, may be increased and the “R” value for other components decreased if the overall heat loss for the building envelope does not exceed the total heat loss which would result from conformance to the following individual requirements or the standards:

(1) Ceilings adjacent to unheated areas: R=30.

(2) Exterior walls and partition walls between heated and unheated areas: R=16.

(3) Foundation walls applicable to heated basements and crawl spaces: R=10.

(4) Partition walls between apartments and other heated areas: R=11.

(5) Floors over areas open to the outside and crawl spaces if foundation walls are not insulated in accordance with paragraph (3): R=19.

(6) Floors over unheated basements: R=11.

(7) Entrance doors: R=4.

(8) Supply ducts in unheated areas: R=5.

(9) Return ducts in unheated areas: R=3.5.

(10) Edge insulation for concrete slabs: R=8.

(11) Windows must be double glazed or single glazed plus storm windows.

(12) Vapor barriers, weather stripping and still sealer must be used where applicable.

(13) Ventilation must be provided for the air spaces between insulated ceilings and roofs.

(d)] Insulation technique and installation applicable to the floor or foundation wall is not always practical at the manufacturing facility. Industrialized-modular-housing [dealers,] builders or contractors may supply and install the required floor or foundation wall insulation. If the [dealer,] builder or contractor supplies and installs the required floor or foundation wall insulation, an assignment of responsibility shall be used. The assignment of responsibility shall be signed by the authorized respective [dealer,] builder or contractor prior to the industrialized-modular-housing unit leaving the manufacturing plant. A manufacturer is required to retain the copies of the assignment of responsibility sheets in his files for inspection by the Department. Periodic inspections will be made on units with [dealer,] builder or contractor-installed floor or foundation wall insulation. Assignment of responsibility [shall] must be on forms provided by the Department which will conform to the following:

ASSIGNMENT OF RESPONSIBILITY

To: _____

I HEREBY ASSUME FULL RESPONSIBILITY FOR COMPLYING WITH THE FLOOR AND/OR FOUNDATION WALL INSULATION REQUIREMENTS AS MANDATED BY AMENDMENT TO THE PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT RULES AND REGULATIONS UNDER THE PENNSYLVANIA INDUSTRIALIZED HOUSING ACT OF MAY 11, 1972.

THIS ASSIGNMENT OF RESPONSIBILITY SHALL APPLY TO THE FOLLOWING HOME(S):

[DEALER] BUILDER NAME: _____

CUSTOMER NAME: _____

MODEL: _____

SERIAL NO.: _____

_____ Date: _____

AUTHORIZED SIGNATURE

[DEALER,] BUILDER, CONTRACTOR

(TO BE COMPLETED AND RETURNED TO THE ABOVE ADDRESS WITH SIGNED CONFIRMATION.)

[(e)] (d) * * *

[(f)] (e) * * *

§ 145.42. Alternate standards.

(a) As an alternative to the primary codes specified in § 145.41 (relating to adoption of standards), a manufacturer may elect to satisfy the requirements of the following

alternate standards. Copies of these documents are available through the respective promulgating agencies as defined in § 145.47 (relating to acquisition of adopted codes and amendments):

(1) [**ICC International Residential Code except that with regard to stair geometry (rise and run), a manufacturer may elect to utilize the 1992 CABO One and Two Family Dwelling Code, Section R-213.1, Figure No. R-213.1; and HUD Minimum Property Standards for One and Two Family Dwellings (24 CFR 200.926 (relating to minimum property standards for one- and two-family dwellings)).**

(2) **Insulation requirements and minimum requirements of § 145.41(c)(1)–(13).**

(3) **Electrical Code for One and Two Family Dwellings, NFPA No. 70.]**

As an alternate to the ICC International Residential Code, Chapter 11 regarding energy efficiency, the manufacturer may use one of the following:

(i) **The prescriptive methods for residential buildings in the International Energy Conservation Code compliance guide containing State maps, prescriptive energy packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (REScheck™).**

(ii) **Pennsylvania's Alternative Residential Energy Provisions developed by the Pennsylvania Housing Research Center at the Pennsylvania State University.**

(2) **As an alternate to the ICC International Residential Code, Chapter 3-Building Planning, in regards to stairway construction, the manufacturer may use the following standard:**

(i) **The maximum riser height must be 8 1/4 inches. There may be no more than 3/8 inch variation in riser height within a flight of stairs. The riser height is to be measured vertically between leading edges of the adjacent treads.**

(ii) **The minimum tread depth must be 9 inches measured from tread nosing to tread nosing. There may be no more than 3/8 inch variation in tread depth within a flight of stairs.**

(iii) **Treads may have a uniform projection of not more than 1 1/2 inches when solid risers are used.**

(iv) **Stairs may not be less than 3 feet in clear width and clear head room of 6 feet 8 inches must be maintained for the entire run of the stair.**

(v) **Handrails may project from each side of a stairway a distance of 3 1/2 inches into the require width of the stairway.**

(b) Except as provided in § 145.43 (relating to amendment policy), the codes must be the latest edition [**including supplements**]. The effective date of code changes [**or supplements**] must be in accordance with §§ 145.44 and 145.122(b) (relating to adoption and effective dates—code amendments; and effective date).

ADMINISTRATIVE PROVISIONS

§ 145.93. Factory inspections; right of entry.

* * * * *

(b) [**Twice yearly**] **Yearly inspections.** A factory or manufacturing facility with approved building system

documentation [**shall**] **will** be inspected at least [**twice**] **once** each year by the Department. The inspections are to verify the effectiveness of the sponsor's quality program and compliance with approved building systems documentation.

* * * * *

[Pa.B. Doc. No. 06-1273. Filed for public inspection July 21, 2006, 9:00 a.m.]

**DEPARTMENT OF
LABOR AND INDUSTRY**

[34 PA. CODE CH. 501]

Registration of Sign Language Interpreters and Transliterators

Under section 3(4) of the Sign Language Interpreters and Transliterators State Registration Act (act) (63 P. S. § 1725.3(4)), the Office for the Deaf and Hard of Hearing (Office) within the Department of Labor and Industry (Department) is submitting proposed rulemaking for the registration of sign language interpreters and transliterators.

Statutory Authority

The Office is empowered to promulgate regulations that are necessary to carry out the act's provisions. The act also provides specific authority to approve a registration examination and to promulgate rulemaking addressing fees, disciplinary violations and registration reactivation. See sections 5(a)(1)(iii) and (d), 8(a)(6) and 9(c)(1) of the act (63 P. S. §§ 1725.5(a)(1)(iii) and (d), 1725.8(a)(6) and 1725.9(c)(1)).

Background

The act was approved July 2, 2004, and took effect on August 31, 2004. The act requires the Office to register sign language interpreters and transliterators who meet the act's testing requirements. Registration renewal is to occur every 2 years. The act also allows the Office to charge fees, initiate discipline, impose administrative fines for violations, suspend, deny or revoke registrations and to hold hearings concerning alleged violations. The Department may seek an injunction or criminal action against persons engaged in sign language interpretation or transliterator services or representing themselves as being registered without being registered under the act.

Since July 2004, the Office has met with numerous organizations whose membership will be affected by the act and its proposed rulemaking. The Office provided information regarding the regulatory process, answers to frequently asked questions regarding the requirements of the act and received recommendations from the affected community.

The Office met and consulted with the following organizations: the Pennsylvania Registry of Interpreters for the Deaf; Pennsylvania Society for Advancement of the Deaf, Erie County Council for the Deaf, Pennsylvania Training and Technical Assistance Network, NE Technical Assistance Consortium, Office of Deaf and Hard of Hearing Advisory Council, Advisory Council for Persons who are Deaf and Hard of Hearing, Pennsylvania Department of Corrections, Pennsylvania Department of Education, Bureau of Special Education; Berks Deaf and Hard of

Hearing Services Board, Office of Equal Employment, Tobyhanna Army Depot, American Sign Language Teacher Association; Pittsburgh Hearing and Deafness Services; Pittsburgh Association for the Deaf; NW Technical Assistance Consortium and the Educational Resources for Children with Hearing Loss.

Purpose

The proposed rulemaking is necessary to implement and clarify the act's provisions concerning the registration and renewal process, the approved registration examination, fees, the circumstances under which nonregistered individuals are permitted to provide services, discipline, reactivation of suspended registrations and the complaint and appeal process.

Summary of Proposed Rulemaking

§ 501.1. Definitions.

This section provides definitions for the Office-approved examinations which test knowledge and proficiency of interpreting and transliterating required for registration under section 5 of the act. These tests are the NAD-RID NIC; the RID Generalist examination and the NAD National Interpreter Certification test. The NAD-RID NIC is a National certification instrument developed jointly by the Registry of Interpreters of the Deaf (RID) and the National Association of the Deaf (NAD). The NAD-RID NIC will ultimately phase out the use of the RID Generalist examination and the NAD National Interpreter Certification test for national certification. However, the certification bestowed on individuals who previously passed these examinations will remain valid. The examinations will remain viable. Definitions are also provided for the "RID," "NAD," "act," "Department," "Office," "Secretary" and "year."

§ 501.2. Fees.

The Office has the discretion to set fees. The Office will utilize the initial \$100 fee set by section 5(d) of the act for registration and renewal. An additional fee of \$50 is required for late renewal. Under section 9(c) of the act, an additional reactivation after suspension fee of \$100 is set.

§ 501.3. Examination.

This section adopts the NAD National Interpreter Certification, RID Generalist and NAD-RID NIC examinations under section 5(a)(1)(iii) of the act. It also provides procedures for an applicant to take the examination.

§ 501.4. Registration.

This section also enumerates the requirements for registration and the Office's duty to issue registrations. The Office may also deny a registration for failure to comply with the act and regulations and for the violations enumerated in the act.

§ 501.5 Exemptions.

This section clarifies the circumstances under which nonregistered individuals may provide interpreting or transliterating services under section 4(b) of the act (63 P. S. § 1725.4(b)). The exemption in subsection (a) applies to interpreting and transliterating services provided in a religious setting under section 4(b)(1) of the act. The proposed rulemaking clarifies that the services must be related to the religious worship services or religious education. The exemption does not apply to services provided for a religious entity or religiously-affiliated school unrelated to religious education.

The exemption in subsection (b) applies to Nationally-certified individuals from outside this Commonwealth providing services within this Commonwealth under section 4(b)(4) of the act. The proposed rulemaking requires these individuals to provide notice to the Office of the time, date, nature and duration of the services they intend to provide and to further provide evidence of current certification by the RID, NAD or NAD-RID NIC. Additionally, the Office will provide notification when an individual has provided 14 days of services.

Subsection (c) addresses the provision of interpreting or transliterating services by a nonregistered individual who provides services at the request of a deaf or hard of hearing individual under section 4(b)(5) of the act. The interpreter shall provide notice to the client that the individual is not registered with the Office. Additionally, the client is required to sign a form stating that he understands the individual is not registered with the Office. The nonregistered interpreter shall maintain a copy of the client's signed statement for 2 years.

Subsection (d) clarifies that an individual under section 4(b)(7) of the act who provides interpreting or transliterating services in a school-related activity, who is employed by a public or private elementary or secondary school shall achieve a score of at least 70% on the EIPA or be registered with the Office to provide services.

Subsection (e) constitutes an exemption for interpreting and transliterating services provided in physician offices under section 4(b)(8) of the act. A nonregistered individual may provide interpreting and transliterating services in a physician's office. However, the patient must be informed that the individual is not registered and informed of the patient's right to request or provide a registered interpreter. The physician's office shall provide a written notice of the patient's rights. The patient shall sign a statement indicating notification the individual is not registered and that the patient has the right to request or provide the services of a registered interpreter. Additionally, the patient shall be informed that a request for the services of a registered interpreter after the commencement of the office visit may result in a delay of the physician's services. Physician's offices shall provide the notice to a patient who is deaf or hard of hearing at each visit. Additionally, the physician's office shall maintain a copy of the signed statement in the patient's health care file.

§ 501.6. Complaints.

This section outlines the Office's duty to investigate alleged violations of the act and the procedure for a person to file a complaint.

§ 501.7. Hearings/appeals.

This section enumerates the hearing and appeal process for adjudicating alleged violations of the act and for the imposition of disciplinary measures under sections 8 and 9 of the act.

Subsection (a) provides that a respondent has the right to notice, hearing and adjudication under 2 Pa.C.S. (relating to administrative law and procedure). Hearings will be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and this section.

Subsection (b) requires the service of an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). A respondent may file an answer, under subsection (c), in accordance with 1 Pa. Code § 35.37 (relating to answers to orders to show cause).

Under subsections (d) and (e), the Office will designate a presiding officer to conduct a hearing and prepare a proposed report and order. The presiding officer will have the powers enumerated in 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers).

Subsection (f) contains the procedures for appealing the proposed report and order to the Secretary under section 10 of the act (63 P.S. § 1725.10). A party seeking an appeal shall file exceptions within 20 days of service of the proposed report and order. The presiding officer will certify and transmit the record to the Secretary. The other party may file a response within 20 days. Either party may seek reopening of the record. If a timely appeal is filed, the Secretary or the Secretary's designee will issue a final order. The Secretary or designee may reopen the record and order additional briefs. The proposed report and order will become a final order if a timely appeal is not made under this section.

§ 501.8. Request for reconsideration of registration denial.

Under subsection (a), the Office may deny a registration application if the applicant does not meet the registration requirements of section 5(a) of the act or for the grounds contained in section 8(a) of the act.

An applicant may seek reconsideration of a denial with the Office by filing a written request under subsections (b) and (c). The Office will review the request. If it again denies the application, it will provide reasons for the denial under subsection (d). If the request is granted, the Office will issue a registration if the applicant pays the renewal fee and completes the application under section 5(a)(1) of the act.

Under subsection (f), an applicant may request a hearing and seek appeal of an adverse order under the procedures enumerated in § 501.6 (relating to hearings/appeals).

§ 501.9. Biennial registration renewal.

Section 5(b)(4) of the act provides that registrations may be issued for a period not to exceed 2 years. Accordingly, subsection (a) provides that registrations are to be renewed on a biennial basis. Practicing or holding forth the ability to practice with an expired registration is prohibited under this subsection.

Subsection (b) provides that the biennial registration will expire on December 31 of even-numbered years.

Subsection (c) contains the renewal requirements which include the submission of a completed application and payment of the required fees prior to the expiration of the current biennial period.

Subsection (d) provides that biennial registration forms and other forms or literature to be distributed by the Office are to be forwarded to the last-known mailing address provided to the Board by the registrant. The provision further provides that failure of the Office to send, or of the registrant to receive, a biennial registration application does not relieve the registrant of the biennial registration responsibility.

The Office will issue a biennial registration, under subsection (d) to an individual meeting these requirements.

§ 501.10. Reactivation of registration.

This section provides the requirements for reactivation of a suspended registration under section 9(c) of the act. These requirements are the time period of the suspension term has to be completed; all terms and conditions of the suspension order were complied with; the individual did

not violate the act or this chapter during the suspension; the individual pays reactivation and renewal fees; and the individual complies with the renewal requirements of subsection (c).

§ 501.11. Change of address/name.

In accordance with section 6 of the act (63 P.S. § 1725.6), a registrant shall notify the office of any change of name or mailing address within 15 days of the change. Additionally, a registrant shall notify the office of any change in personal and professional information.

Affected Persons

The Office estimates that approximately 200 individuals will register under this act. These registrants will be impacted by the act's requirements which include a demonstration of competency to provide interpreting and transliterating services and the registration fee. Pennsylvanians who are deaf or hard of hearing who rely on interpreting and transliterating services will benefit from uniform standards relating to knowledge and proficiency.

A physician's office will have to complete and maintain records and provide notification to patients to comply with the exclusion provided in section 4(b)(8) of the act and § 501.3(d) of the proposed rulemaking. A physician's office will have to allow a patient to utilize a registrant, if requested.

Fiscal Impact

It is anticipated that there will be costs to the Department as a result of this proposed rulemaking. These costs should be offset by the registration and renewal fees contained in the rulemaking. It is anticipated that the Department will receive \$20,000 in initial registration fees.

The Department cannot anticipate the costs of investigating, prosecuting and adjudicating alleged violations because there is no basis for comparison for this activity. The Office cannot predict the costs of monitoring compliance with the registration exclusions provided in § 501.4. It is not expected that the levying of administrative fines will demonstrably offset costs.

Paperwork Requirements

The Office will have to develop forms for registration and renewals and for filing complaints. It will develop a registration card or identification for registrants. Related forms include registration denial, and notifications concerning reconsideration. The Office and will have to keep records indicating registration status, hearings and discipline. Many of these records have to be accessible to the public under section 3(3) of the act.

Applicants will have to provide documentation to register and renew registrations, including certification requirements under § 501.3. A physician's office will have to complete and keep records concerning patient notification under § 501.4(d).

Sunset Date

A sunset date is not appropriate for this proposed rulemaking. The Office will periodically monitor this proposed rulemaking and submit amendments as needed.

Effective Date

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

Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Catherine N. Wojciechowski, Deputy Chief Counsel, 10th Floor, Labor and Industry Building, 7th and Forster Streets, Harrisburg, PA 17120, (717) 787-4186; fax (717) 783-1303; e-mail: cwojciecho@state.pa.us within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 10, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Labor Relations and Labor and Industry Committees. A copy of this material is available to the public upon request.

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

STEPHEN M. SCHMERIN,
Secretary

Fiscal Note: 12-71. (1) General Fund; (2) Implementing Year 2005-06 is \$27,400; (3) 1st Succeeding Year 2006-07 is \$12,100; 2nd Succeeding Year 2007-08 is \$12,100; 3rd Succeeding Year 2008-09 is \$12,100; 4th Succeeding Year 2009-10 is \$12,100; 5th Succeeding Year 2010-11 is \$12,100 (4) 2004-05 Program—\$15,900; 2003-04 Program—\$N/A; 2002-3 Program—\$N/A; (7) Labor and Industry General Government Operations; (8) recommends adoption

Annex A

TITLE 34. LABOR AND INDUSTRY

PART IX. OFFICE OF THE DEAF AND HARD OF HEARING

CHAPTER 501. REGISTRATION OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

Sec.	
50.1.	Definitions.
50.2.	Fees.
50.3.	Examination
50.4.	Registration
50.5.	Exemptions.
50.6.	Complaints
50.7.	Hearings/appeals.
50.8.	Request for reconsideration of registration.
50.9.	Biennial registration renewal.
50.10.	Reactivation of registration.
50.11.	Change of address/name/information.

§ 501.1. Definitions.

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

Act—The Sign Language Interpreter and Transliterator State Registration Act (63 P. S. §§ 1725.1—1725.12).

Department—The Department of Labor and Industry of the Commonwealth.

NAD—National Association of the Deaf, 814 Thayer Avenue, Silver Spring, MD 20910. A Nationally-recognized certification organization for interpreters and transliterators.

NAD National Interpreter Certification Test—The written and performance examinations conducted by the NAD for Level IV or V certification as a sign language interpreter or transliterator.

NAD-RID NIC—The National Interpreter Certification test which is the knowledge, interview and performance examination conducted for National certification as a sign language interpreter or transliterator.

Office—The Office for the Deaf and Hard of Hearing within the Department, 1521 North 6th Street, Harrisburg, PA 17102.

RID—Registry of Interpreters of the Deaf, 333 Commerce Street, Alexandria, VA 22314. A Nationally-recognized certification organization for interpreters and transliterators.

RID Generalist examination—The written and performance examination conducted by the RID for certification as a sign language interpreter or transliterator.

Secretary—The Secretary of the Department or the Secretary's designee.

Year—A calendar year.

§ 501.2. Fees.

The Office will charge the following fees:

(1) Registration	\$100
(2) Biennial renewal of existing registration	\$100
(3) Surcharge for late renewal of biennial registration.	\$50
(4) Reactivation following suspension.	\$100
(5) Registration identification card replacement.	\$10

§ 501.3. Examination.

(a) The following examinations are approved as the examination which tests knowledge and proficiency under section 5(a)(1)(iii) of the act (63 P. S. § 1725.5(a)(1)(iii)):

- (1) NAD National Interpreter Certification.
- (2) RID Generalist Examination.
- (3) NAD-RID NIC.

(b) An applicant for any of the approved examinations shall obtain applications directly from and pay the required examination fee directly to the examination provider.

§ 501.4. Registration.

(a) An applicant for registration shall submit the following to the office:

(1) Proof of receiving a passing score on any of the approved examinations. This may include proof of current certification by the NAD, RID or NAD-RID NIC.

(2) A completed registration application. Applications may be obtained from the office or the Department website _____. (*Editor's Note:* The blank refers to the website which will be placed in final-form regulation.)

(3) The required registration fee under § 501.2 (relating to fees). Checks shall be made payable to the Commonwealth of Pennsylvania.

(b) The Office will issue a paper or electronic registration to a registrant if the registrant complies with subsection (c) and meets the requirements of section 5(a) of the act (35 P. S. § 1725.5(a)).

(c) The Office may deny an application for registration if one or more of the following apply:

- (1) The applicant does not comply with this section.
- (2) The applicant fails to meet the requirements of section 5(a) of the act.
- (3) The applicant committed a violation enumerated in section 8(a) of the act 63 P. S. § 1525.8(a)(8).

(d) The Office will comply with the procedures contained in § 501.8 (relating to request for reconsideration of registration denial) if an application for registration is denied.

§ 501.5. Exemptions.

(a) An individual engaged in interpreting or transliterating services in a religious setting is exempt from registration under section 4(b)(1) of the act (63 P. S. § 1725.4(b)(1)) if the services are provided either:

- (1) During a worship service conducted by a religious entity.
- (2) Exclusively for religious-study purposes for a religious entity or religiously affiliated school.

(b) An individual who does not reside in this Commonwealth is exempt from registration under section 4(b)(4) of the act in accordance with the following:

- (1) The individual possesses current certification from a National certifying body.
- (2) The individual provides interpreting or transliterating services in this Commonwealth for no longer than 14 days each year.
- (3) The individual provides the following to the Office before the interpreting or transliterating service is provided:
 - (i) Written notice of the time, date, nature and duration of each sign language or transliterating service that the individual intends to provide within this Commonwealth.
 - (ii) Proof of current certification.

(4) The Office will provide notice to a sign language interpreter or transliterator that he has provided 14 days of services during the year and that the individual is prohibited from providing any further interpreting or transliterating services within this Commonwealth during the year, unless the individual registers with the Office in accordance with section 5 of the act (63 P. S. § 1725.5).

(c) An individual engaged in interpreting or transliterating at the request of a client who is deaf or hard of hearing is exempt from registration under section 4(b)(5) of the act in accordance with the following:

- (1) The individual notifies the client that the individual is not registered with the Office.
- (2) The client signs written confirmation that the individual is not registered.
- (3) The individual providing services shall maintain a copy of the client's signed statement for 2 years.
- (d) An individual is exempt from registration under section 4(b)(7) of the act for a school-related activity if the individual meets the following conditions:
 - (1) Is engaged in interpreting or transliterating services in a school-related activity.
 - (2) Is currently employed by a public or private elementary or secondary school.

(3) Received a score of at least 70% on the EIPA.

(e) An individual is exempt from registration under section 4(b)(8) of the act if the individual provides sign language interpreting or transliterating services to a patient who is deaf or hard of hearing in a physician's office in accordance with the following:

(1) The patient signs a written confirmation that the individual providing the interpreting or transliterating services is not registered and that the patient has the right to request or provide an interpreter or transliterator who is registered with the Office. This confirmation shall be completed during every office visit.

(2) The physician's office informs the patient in writing that a request for a registered interpreter or transliterator made after the commencement of the office visit may result in a delay of physician services.

(3) The physician's office shall maintain a copy of the patient's signed statement in the patient's health care file.

§ 501.6. Complaints.

(a) Upon the receipt of a written complaint or upon its own initiative, the Office may investigate allegations of violations of section 8 of the act (63 P. S. § 1725.8).

(b) Complaints must contain:

- (1) The name and address of complainant.
- (2) The name and address, if known, of the individual against whom the complaint is filed.
- (3) A statement of the facts forming the basis of the complaint or conclusion that there has been a violation of the act.

(4) The name of any witnesses and other information that may be pertinent to an investigation.

(c) Complaints shall be submitted to the Office of Deaf and Hard of Hearing which may commence an investigation.

§ 501.7. Hearings/appeals.

(a) Actions under sections 8 and 9 of the act (63 P. S. §§ 1725.8 and 1725.9) will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure). Hearings will be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and this section.

(b) The Office will serve the registrant with an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). The order to show cause will contain notification that the registration may be subject to action and the grounds for the action. The order to show cause will contain notification that the respondent is to respond in writing within 30 days after the date of the service of the order or in accordance with another date designated by the Office.

(c) The registrant may respond in writing to the allegations of the order to show cause under 1 Pa. Code § 35.37 (relating to answers to orders to show cause). If made, the answer shall be filed with the Office within 30 days after the date of the order to show cause or within another time period specified by the Office.

(d) The Office will provide the opportunity for a recorded hearing on the allegations. The Office will designate a presiding officer to conduct the hearing under 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers).

(e) The presiding officer will prepare and issue a proposed report and order under 1 Pa. Code §§ 35.201—35.207 (relating to proposed reports generally). The presiding officer will serve the proposed report upon counsel of record or to the parties in the hearing. The proposed report will contain the Department address where an appeal may be filed.

(f) A party may appeal the proposed report and order to the Secretary within 20 days of service of the proposed report under section 10 of the act (63 P. S. § 1725.10). Appeals are governed by the following:

(1) A party desiring to appeal to the Secretary shall file exceptions to the proposed report and order within 20 days of service in accordance with 1 Pa. Code § 35.211 (relating to procedure to except to proposed report). The party may seek the reopening of the record to present testimony or evidence by filing a request with the exceptions.

(2) A party may file a written response to the exceptions within 20 days of service of the exceptions. The party may seek the reopening of the record to present testimony or evidence by filing a request with the response.

(3) If a timely appeal is filed, the presiding officer will transmit the proposed report and order and the certified record to the Secretary.

(4) If a timely appeal is filed, the Secretary will issue the final order under 1 Pa. Code § 35.226 (relating to final orders). The Secretary may reopen the record and order additional briefs.

(5) The presiding officer's proposed report and order will be the Department's final order under section 11 of the act (63 P. S. § 1725.11) if a timely appeal is not made under this section.

(g) This section supplements 1 Pa. Code §§ 35.14, 35.37, 35.185—35.190, 35.201—35.207, 35.211 and 35.226.

§ 501.8. Request for reconsideration of registration denial.

(a) The Office may deny an application for registration if an applicant does not meet the registration requirements of section 5(a) of the act (63 P. S. § 1725.5(a)) or for the grounds contained in section 8(a) of the act (63 P. S. § 1725.8(a)).

(b) An applicant for registration whose application was denied by the Office may file a request for reconsideration with the Office.

(c) The request for reconsideration must be in writing and include the following:

- (1) The applicant's name and address.
- (2) The facts supporting the applicant's request for reconsideration.
- (3) Supporting documentation demonstrating that the applicant meets the requirements for registration under section 5(a)(2) of the act.

(d) The Office will review the request for reconsideration and issue a written determination containing its decision. If reconsideration is denied, the Office will provide a summary of the reasons in the determination.

(e) If the request is granted, the Office will issue a registration to the applicant if the applicant pays the renewal fee and completes the application under section 5(a)(1) of the act.

(f) An applicant may seek a hearing and appeal the denial of registration under sections 10 and 11 of the act (63 P. S. §§ 1725.10 and 1725.11). The Office and Department will conduct hearings and resolve appeals under § 501.7 (relating to hearings/appeals).

§ 501.9. Biennial registration renewal.

(a) A registrant shall renew the registration biennially to retain the right to continue to provide interpreting or transliterating services, or offer to provide sign language interpreting or transliterating services, or hold himself out as a qualified sign language interpreter or a qualified transliterator or use similar titles or designations under the act.

(b) Registration for a biennium expires December 31 of every even-numbered year.

(c) To renew a registration, a registrant shall submit to the office before the expiration of the renewal period a completed renewal application supplied by the Office along with the required renewal fee and any late or reactivation fees under § 501.2 (relating to fees).

(d) Biennial registration forms and other forms or literature to be distributed by the Office will be forwarded to the last mailing address given to the Office by the registrant. Failure of the Office to send, or of the registrant to receive, a biennial registration application does not relieve the registrant of the biennial registration responsibility.

(e) The Office will issue a nontransferable biennial registration to a registrant who renews registration under this section.

§ 501.10. Reactivation of registration.

An individual may reactivate a suspended registration under section 9(c) of the act (63 P. S. § 1725.9(c)) if the following conditions are met:

- (1) The suspension term certain has fully elapsed.
- (2) The individual has complied with the terms and conditions of the suspension order.
- (3) The individual has not violated the act or this chapter during the suspension term.
- (4) The individual pays the reactivation fee under § 501.2 (relating to fees).
- (5) The individual complies with the renewal requirements of § 501.9 (relating to biennial registration renewal).

§ 501.11. Change of address/name/information.

A registrant shall notify the Office of any change of name, mailing address or other personal or professional information within 15 days of making the change.

[Pa.B. Doc. No. 06-1274. Filed for public inspection July 21, 2006, 9:00 a.m.]

MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

[37 PA. CODE CH. 203]

Administration of the Training Program

The State Police, Municipal Police Officers' Education and Training Commission (Commission), proposes to amend 37 Pa. Code § 203.11(a)(6) (relating to qualifications) to allow licensed physician's assistants and certified nurse practitioners to conduct physical examinations, which is consistent with current medical practice.

Statutory Authority

The amendment is proposed under 53 Pa.C.S. § 2164 (1), (8) and (14) (relating to powers and duties of the commission).

Effect

The proposed change will affect recruits, out-of-State police officers seeking training waivers and certified schools.

Effective Date/Sunset Date

The amendment will be effective immediately upon final adoption. These regulations are continually monitored and updated as needed. Therefore, no sunset date has been set.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 10, 2006, the Commission submitted a copy of the proposed rulemaking and a copy of the Regulatory Analysis Form, to the Independent Regulatory Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee. A copy of these materials is available to the public upon written request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final-form publication of the regulation by the State

Police, the General Assembly and the Governor of comments, recommendations or objections raised.

Contact Person/Public Comment

Interested persons wishing to comment are invited to submit all written comments within 30 days of the publication of this notice in the *Pennsylvania Bulletin*. Each written comment must include the name, address and telephone number of the interested party and a concise statement with sufficient detail on the subject. Written statements may be directed to Syndi L. Guido, Policy Director, State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-0905. Persons with a disability who require an alternative format of this document (that is large print, audio tape, Braille) should contact Syndi Guido so that she may make the necessary arrangements.

COLONEL JEFFREY B. MILLER,
Commissioner

Fiscal Note: 17-73. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART IV. MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

Subpart A. MUNICIPAL POLICE OFFICERS' TRAINING PROGRAM

CHAPTER 203. ADMINISTRATION OF THE TRAINING PROGRAM

Subchapter B. POLICE OFFICER CERTIFICATION REQUIREMENTS

§ 203.11. Qualifications

(a) Except as provided in subsection (b), persons who are to be employed as police officers by police departments within this Commonwealth from December 21, 1996, shall:

* * * * *

(6) Be personally examined by a [**Pennsylvania licensed**] physician, **physician's assistant or certified nurse practitioner who is licensed in Pennsylvania**. The examination shall include the following:

* * * * *

[Pa.B. Doc. No. 06-1275. Filed for public inspection July 21, 2006, 9:00 a.m.]
