

# PROPOSED RULEMAKING

## STATE BOARD OF CHIROPRACTIC

[ 49 PA. CODE CH. 5 ]

### Child Abuse Reporting Requirements

The State Board of Chiropractic (Board) proposes to amend §§ 5.1, 5.12, 5.13, 5.17, 5.20 and 5.91—5.96, and add §§ 5.97 and 5.98 (relating to child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process) to read as set forth in Annex A.

#### *Effective Date*

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

#### *Statutory Authority*

Section 302(3) of the Chiropractic Practice Act (63 P.S. § 625.302(3)) sets forth the Board's general rulemaking authority. Under 23 Pa.C.S. Chapter 63 (relating to Child Protective Services Law) (CPSL), specifically, section 6383(b)(2) of the CPSL (relating to education and training), the Board is required to promulgate regulations to implement the mandatory reporting requirements for licensees of the Board.

#### *Background and Purpose*

Since 2014, the General Assembly has made numerous amendments to the CPSL, including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) (Act 31) on all health-related Boards to require training in child abuse recognition and reporting for licensees who are considered "mandated reporters" under the CPSL. Section 2 of Act 31 provided that these training requirements would apply to persons applying for a license, or applying for renewal of a license, on or after January 1, 2015, and were implemented as of that date. These amendments are required to update the Board's existing regulations on the subject of child abuse reporting to comport to the numerous amendments made to the CPSL, and to incorporate the mandatory training requirements required by Act 31.

#### *Description of the Proposed Amendments*

The Board proposes to amend § 5.1 (relating to definitions) to update the definitions of terms used in the CPSL. Specifically, the Board finds it necessary to define the terms "bodily injury," "child," "parent," "program, activity or service" and "serious physical neglect" and to amend the definitions of "child abuse," "perpetrator," "person responsible for the child's welfare," "recent acts or omissions" and "sexual abuse or exploitation" to comport with amendments made to the CPSL. The Board has also added a definition for the term "mandated reporter" for ease of reference. The Board proposes to delete definitions for "individual residing in the same home as the child" and "serious physical injury" because these terms have been deleted from the CPSL. The Board also proposes to amend, where necessary throughout the proposal, the name of the Department of Public Welfare, as the name of that agency has changed to the Department of Human Services.

The Board next proposes amendments to Subchapter B (relating to licensure, certification, examination and registration provisions). First, §§ 5.12 and 5.13 (relating to licensure by examination; and licensure by reciprocity)

would be amended to incorporate the requirement that applicants for licensure complete at least 3 hours of approved training in child abuse recognition and reporting as required under section 6383(b)(3)(i) of the CPSL. Similarly, § 5.17 (relating to biennial registration; unregistered status and inactive status; failure to renew; address of record) would be amended to incorporate the requirement that licensees complete at least 2 hours of approved courses in child abuse recognition and reporting as a condition of renewal/reactivation as required under section 6383(b)(3)(ii) of the CPSL. The Board also proposes amendments to § 5.20 (relating to volunteer license) to make it clear that these mandatory training requirements also apply to volunteer license holders.

The Board next proposes comprehensive amendments to the child abuse reporting requirements in Subchapter I (relating to child abuse reporting requirements). The Board is proposing to amend § 5.91 (relating to suspected child abuse—mandated reporting requirements) to provide the general rule that all licensed chiropractors are considered mandated reporters, and to update the mandated reporting requirements and reporting procedures as set forth in sections 6311 and 6313 of the CPSL (relating to persons required to report suspected child abuse; and reporting procedure), as amended. The Department of Human Services has implemented an electronic reporting process for mandated reporters, and the Board finds it necessary to propose amendments to § 5.92 (relating to photographs, medical tests and X-rays of child subject to report) to set forth the requirement to submit documentation relating to photographs, medical tests and X-rays to the county children and youth social service agency within 48 hours of making an electronic report in accordance with section 6314 of the CPSL (relating to photographs, medical tests and X-rays of child subject to report), and to include the requirement that medical summaries or reports of the photographs, X-rays and relevant medical tests be made available to law enforcement officials in the course of investigating cases under section 6340(a)(9) or (10) of the CPSL (relating to release of information in confidential reports).

The Board is proposing to amend § 5.93 (relating to suspected death as a result of child abuse—mandated reporting requirement) to incorporate an amendment made to section 6317 of the CPSL to permit such a report to be made to the medical examiner of the county where the death occurred, or of the county where the injuries were sustained. Further, the Board is proposing to amend and restructure § 5.94 (relating to immunity from liability) to incorporate amendments made to section 6318 of the CPSL (relating to immunity to liability) in subsection (a) and to clarify in subsection (b) that the Board will uphold the same good faith presumption in any disciplinary proceedings that may be brought for violations of the duties imposed upon licensees that are set forth in §§ 5.91—5.93. The Board also proposes to amend § 5.95 (relating to confidentiality—waived) to incorporate the provisions of section 6311.1 of the CPSL (relating to privileged communications). Likewise, the Board proposes to amend § 5.96 (relating to noncompliance) to update the criminal penalties for failure to make a report or referral required by the CPSL, which have been increased in recent years from a summary offense for a first violation and a misdemeanor for a second or subsequent

violation to a misdemeanor of the second degree for most offenses, except under certain enumerated circumstances where the offense is graded as a felony.

The Board proposes to add two sections to Subchapter I to incorporate the mandatory training requirements set forth in section 6383(b)(3)(i) and (ii) of the CPSL. Section 5.97 would set forth the requirements that all individuals applying to the Board for an initial license are required to complete at least 3 hours of approved training in child abuse recognition and reporting in subsection (a); and that all licensees seeking renewal are required to complete at least 2 hours of approved continuing education in child abuse recognition and reporting as a requirement of renewal in subsection (b). The Board would also provide notice that these 2 hours of training would be accepted as a portion of the total continuing education required for biennial renewal, and not an additional requirement, as provided in section 6383(b)(3)(ii) of the CPSL. The Board is also clarifying that a license will not be issued or renewed unless the Bureau has received an electronic report from an approved provider documenting the attendance/participation of the applicant/licensee. The proposal would also clarify that for purposes of renewal, the course must be completed within the applicable biennial renewal period, and that if a licensee also holds a license from another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

Subsection (c) would include the process for applying for an exemption from the mandatory training requirements as set forth in section 6383(b)(4) and (6) of the CPSL, for individuals who have already completed similar training or who otherwise should be exempt from the training requirements. Specifically, paragraph (1) provides an exemption for individuals who have already completed similar training required under section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6). Paragraph (2) provides an exemption for individuals who have completed comparable training under section 6383(c) of the CPSL. The Board notes that section 6383(b)(4)(ii)(B) of the CPSL provides an exemption for individuals who have already completed child abuse recognition training required by the Public Welfare Code (now known as the Human Services Code), and the training was approved by the Department of Human Services. However, the Department of Human Services has confirmed that there is no provision in the Human Services Code that requires such training. Instead, section 6383(c) of the CPSL (which is in the Domestic Relations Code) sets forth the requirement that certain individuals and entities regulated by the Department of Human Services complete mandated reporter training. Therefore, the Board believes it is appropriate to include an exemption for a licensee who has already completed comparable training in child abuse recognition and reporting required by the Department of Human Services under section 6383(c). For example, if a chiropractor happened to be a foster parent and, therefore, was required to complete the training under section 6383(c), there would be no need to repeat the training as a condition of licensure or license renewal under section 6383(b). In addition, section 6383(b)(6) permits the Board to exempt a licensee from the training requirement if the licensee "submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement." The Board believes that this section also provides authority to the Board to determine that those licensees who are required

to complete comparable training under section 6383(c) should be exempt from the training requirement under section 6383(b), provided they submit acceptable documentation to the Board evidencing completion of comparable training. Finally, paragraph (3) would further implement section 6383(b)(6) of the CPSL by providing an exemption for an individual who submits documentation acceptable to the Board demonstrating why they should not be subject to the training or continuing education requirement. The Board also proposes to clarify the standards for granting an exemption under paragraph (3) by explaining that the Board will not grant an exemption based solely upon proof that children are not a part of the applicant's or licensee's practice and that each request for an exemption will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances.

The Board also proposes adding subsection (d) clarifying that exemptions which are granted are applicable only to the biennial renewal period in which the exemption is requested. This subsection will also clarify the process for notifying an applicant or licensee of the Board's decision to grant or deny the exemption.

Finally, the Board proposes to add § 5.98 to set forth the administrative process developed by the Bureau of Professional and Occupational Affairs (Bureau), in conjunction with the Department of Human Services (DHS), for individuals, entities and organizations to apply for approval to deliver the training required under 6383(b)(3) of the CPSL. Subsection (a) requires an individual, entity or organization to apply simultaneously to DHS and the Bureau. Subsection (b) sets forth the required course materials to be submitted. In addition to the materials that are required to be submitted relating to the training itself for review by DHS, the Bureau has established a requirement that to be approved to provide the mandatory training in child abuse recognition and reporting, an individual, entity or organization must be able to report participation or attendance electronically to the Bureau. In this manner, the completion of the training is automatically imported into the individual's record with the Board at the time the course is completed. Then, at the time of application or renewal, the system verifies that the training was completed as required prior to issuing or renewing the license or certificate. Thus, the Board will not issue or renew a license unless an electronic report has been received from an approved course provider or the licensee has received an exemption from the mandatory training requirement. Finally, subsection (c) clarifies that the Bureau will notify the individual, entity or organization in writing upon approval of the course and will post a list of approved courses on the Bureau's and the Board's web site.

#### *Fiscal Impact and Paperwork Requirements*

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these amendments. Because licensees are already required to complete mandatory continuing education, and these 2 hours in child abuse recognition and reporting are incorporated in the existing requirement, there would be no increased burden. Only applicants for licensure would incur an additional requirement, and as there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal. Because all approved training providers of the mandatory training in child abuse recognition and reporting are

required to report attendance/participation electronically, there are no additional paperwork requirements imposed on licensees. In addition, the implementation of an electronic reporting system for mandated reporters of child abuse under the CPSL by the Department of Human Services has decreased the paperwork requirements related to the mandatory reporting requirements.

*Sunset Date*

The Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 26, 2022, the Board submitted a copy of this proposed rulemaking and a copy of a regulatory analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) that have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the General Assembly and the Governor.

*Public Comment*

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed rulemaking to the Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail to RA-STRegulatoryCounsel@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be identified as pertaining to rulemaking 16A-4322 (Child Abuse Reporting Requirements).

MICHAEL SWANK, DC,  
Board Chairperson

**Fiscal Note:** 16A-4322. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 5. STATE BOARD OF CHIROPRACTIC**

**Subchapter A. GENERAL PROVISIONS**

**§ 5.1 Definitions.**

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

*Act*—The Chiropractic Practice Act (63 P.S. §§ 625.101—625.1106).

*Approved chiropractic college*—A chiropractic college approved in accordance with section 303 of the act (63 P.S. § 625.303).

*Board*—The State Board of Chiropractic of the Commonwealth.

**Bodily injury—Impairment of physical condition or substantial pain.**

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

**Child—An individual under 18 years of age.**

*Child abuse*—[ A term meaning any of the following:

(i) **A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.**

(ii) **An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.**

(iii) **A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.**

(iv) **Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning. ]**

**Intentionally, knowingly or recklessly doing any of the following:**

(i) **Causing bodily injury to a child through any recent act or failure to act.**

(ii) **Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.**

(iii) **Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of these acts or failures to act.**

(iv) **Causing sexual abuse or exploitation of a child through any act or failure to act.**

(v) **Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.**

(vi) **Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.**

(vii) **Causing serious physical neglect of a child.**

(viii) **Engaging in any of the following recent acts:**

(A) **Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.**

(B) **Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.**

(C) **Forcefully shaking a child under 1 year of age.**

(D) Forcefully slapping or otherwise striking a child under 1 year of age.

(E) Interfering with the breathing of a child.

(F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.

(II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(ix) Causing the death of the child through any act or failure to act.

(x) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

*ChildLine*—An organizational unit of the Department of [ **Public Welfare** ] **Human Services**, which operates a 24-hour a day Statewide [ **toll free** ] **toll-free** telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

*Chiropractic specialty*—A specialized area of chiropractic in which a licensee has achieved certification or diplomate status through a program approved by an approved chiropractic college that has established valid standards acceptable to the Board for the achievement of certification or diplomate status.

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

*Licensee*—An individual holding an unrestricted license to practice chiropractic granted by the Board in accordance with the act and this chapter.

**Mandated reporter—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes all licensed chiropractors.**

*NBCE*—The National Board of Chiropractic Examiners.

*National Board of Examination*—An examination developed, prepared, administered and graded by the NBCE.

**Parent—A biological parent, adoptive parent or legal guardian.**

**Perpetrator—[ A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent. ] A person who has committed child abuse as defined in this section. The following apply:**

(i) This term includes only the following:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) An individual 14 years of age or older who is a person responsible for the child's welfare or who has direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home as the child but is related, within the third degree of consanguinity or affinity by birth or adoption, to the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person responsible for the child's welfare who is 18 years of age or older.

(E) A person 18 years of age or older who resides in the same home as the child.

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

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

(i) A youth camp or program.

(ii) A recreational camp or program.

(iii) A sports or athletic program.

(iv) A community or social outreach program.

- (v) An enrichment or educational program.
- (vi) A troop, club or similar organization.

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

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

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

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

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

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

Sexual abuse or exploitation—[ The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children. ] Any of the following:

- (i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:
  - (A) Looking at sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
  - (B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
  - (C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

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

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

- (A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).
- (B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
- (C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- (D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).
- (E) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
- (F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

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

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

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

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

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

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

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

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

**Subchapter B. LICENSURE, CERTIFICATION, EXAMINATION AND REGISTRATION PROVISIONS**  
**§ 5.12. Licensure by examination.**

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(c) The applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with § 5.41 (relating to certification of professional liability insurance). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice chiropractic in this Commonwealth. Upon issuance of the license, the licensee has 30 days to submit to the Board the certificate of insurance or a copy of the policy declaration page as described in § 5.41. The effective date of this subsection is September 1, 1988.

(d) The applicant shall submit, or cause to be submitted, evidence of having completed at least 3

**hours of approved training in child abuse recognition and reporting in accordance with § 5.97(a) (relating to child abuse recognition and reporting—mandatory training requirement).**

**§ 5.13. Licensure by reciprocity.**

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(d) The applicant shall provide proof that the applicant has obtained professional liability insurance in accordance with § 5.41 (relating to certification of professional liability insurance). It is sufficient if the applicant files with the application a copy of a letter from the applicant's professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon the issuance of the applicant's license to practice chiropractic in this Commonwealth. Upon issuance of the license, the licensee has 30 days to submit to the Board the certificate of insurance or copy of the policy declaration page as described in § 5.41. The effective date of this subsection is September 1, 1988.

**(d.1) The applicant shall submit, or cause to be submitted, evidence that the applicant has completed at least 3 hours of approved training in child abuse recognition and reporting in accordance with § 5.97(a) (relating to child abuse recognition and reporting—mandatory training requirement).**

(e) The Board may deny an application for licensure by reciprocity as provided in section 506(a) of the act (63 P.S. § 625.506(a)).

**§ 5.17. Biennial registration; unregistered status and inactive status; failure to renew; address of record.**

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(f) An application for biennial registration shall contain the following information in the manner indicated on the application form:

\* \* \* \* \*

(3) Proof of attendance at continuing education courses during the previous biennial registration period as required by section 507 of the act (63 P.S. § 625.507) and § 5.14 (relating to certification to use adjunctive procedures), if proof was not filed by the expiration of that biennial registration period.

**(4) Verification that the applicant has completed at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 5.97(b) (relating to child abuse recognition and reporting—mandatory training requirement).**

(g) A licensee failing to file biennial registration application or pay the required registration fee by the registration date will have the license classified as unregistered. As long as a licensee holds an unregistered license, the licensee is not permitted to practice in this Commonwealth. A licensee who does so when the license was unregistered will be required to pay a penalty fee of \$5 for each month or part of a month since the expiration of the biennial registration and may be subject to disciplinary proceedings before the Board or criminal prosecution, or both.

\* \* \* \* \*

(j) To renew an inactive or unregistered license, a licensee shall file an application for biennial registration, pay the current and back registration and penalty fees which are due, submit a notarized affidavit setting forth the time in which the licensee did not practice in this

Commonwealth, submit a resumé of activities since the license was last registered, submit a letter of good standing from another state where the licensee has been practicing and submit evidence of compliance with continuing education, **including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 5.97(b)**, and professional liability insurance requirements in accordance with the act and this chapter.

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**§ 5.20. Volunteer license.**

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(c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide, **or cause to be provided:**

\* \* \* \* \*

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

**(3) Verification that the applicant has completed at least 3 hours of mandatory training in child abuse recognition and reporting in accordance with § 5.97(a) (relating to child abuse recognition and reporting—mandatory training requirement).**

(d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the volunteer license holder shall notify the Board of any change in clinic or volunteer status within 30 days of the date of the change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as a holder of an active, unrestricted license, **including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 5.97(b).**

(2) The applicant shall be exempt from § 5.6 (relating to fees) pertaining to the biennial renewal fee and shall be exempt from section 508 of the Chiropractic Practice Act (63 P.S. § 625.508) with regard to the maintenance of liability insurance coverage under section 701 of the Health Care Services Malpractice Act (40 P.S. § 1301-701).

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**Subchapter I. CHILD ABUSE REPORTING REQUIREMENTS**

**§ 5.91. Suspected child abuse—mandated reporting requirements.**

(a) *General rule.*

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), **licensed** chiropractors [ **who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare and to the appropriate county agency when they have reasonable cause to suspect on the basis of their professional or other training or experi-**

ence, that a child coming before them in their professional or official capacity is a victim of child abuse ] are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

(ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) Nothing in this subsection shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this subsection shall require the mandated reporter to take steps to identify the person responsible for the child abuse, if unknown, in order for the mandated reporter to make a report of suspected child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* [Chiropractors who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the Board regulated practitioner, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d) ] Whenever a licensed chiropractor is required to make a report under subsection (a) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that chiropractor shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

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

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

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

A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(1) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this paragraph may be submitted electronically.

(2) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service's Child Welfare Information Solution self-service portal at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis). A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(d) *Written or electronic reports.* [Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available ] A written or electronic report of suspected child abuse, shall include the following information, if known:

(1) The names and addresses of the child [ and ], the child's parents [ or ] and any other person responsible for the [ care of the child, if known ] child's welfare.

(2) Where the suspected child abuse occurred.

(3) The age and sex of [ the subjects ] each subject of the report.

(4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or [ siblings ] any sibling of the child.

(5) The name and relationship of [ the persons ] each individual responsible for causing the suspected abuse [ , if known, ] and any evidence of prior abuse by [ those persons ] each individual.

(6) Family composition.

(7) The source of the report.

(8) The name, telephone number and e-mail address of the person making the report [ and where that person can be reached ].

(9) The actions taken by the [ reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the

medical examiner or coroner ] person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.

(10) Other information which the Department of [ **Public Welfare** ] **Human Services** may require by regulation.

**(11) Other information required by Federal law or regulation.**

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

A chiropractor required to report suspected child abuse may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 5.91(c)(2) (relating to suspected child abuse—mandated reporting requirements), or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request. Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6340(a)(9) or (10) (relating to release of information in confidential reports).

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

A chiropractor who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

**§ 5.94. Immunity from liability.**

(a) Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a chiropractor who participates in good faith in the making of a report of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse or general protective services or [ the taking of photographs ] engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity from civil and criminal liability that might result by reason of the chiropractor's actions. For the purpose of any civil or criminal proceeding, the good faith of the chiropractor shall be presumed.

(b) The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a chiropractor's actions [ in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs ] under §§ 5.91—5.93 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests

and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

**§ 5.95. Confidentiality—waived.**

To protect children from abuse, the reporting requirements of §§ 5.91—5.94 take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse.

**§ 5.96. Noncompliance.**

(a) *Disciplinary action.* A chiropractor who willfully fails to comply with the reporting requirements in §§ 5.91—5.93 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 506(a)(9) and (13) of the act (63 P.S. § 625.506(a)(9) and (13)).

(b) *Criminal penalties.* [ Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a chiropractor who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation. ] Under 23 Pa.C.S. § 6319 (relating to penalties), a chiropractor who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities, and who willfully fails to do so, commits a criminal offense, as follows:

(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if:

(i) The mandated reporter willfully fails to report.

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

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

(3) If the willful failure to report an individual suspected of child abuse continues while the mandated reporter knows or has reasonable cause to suspect that a child is being subjected to child abuse by the same individual or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.

(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under 23 Pa.C.S. § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of



**the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.**

(*Editor's Note:* Sections 5.97 and 5.98 are proposed to be added and are printed in regular type to enhance readability.)

**§ 5.97. Child abuse recognition and reporting—mandatory training requirement.**

(a) Except as provided in subsection (c), individuals applying to the Board for an initial license shall complete at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services and the Bureau, as set forth in § 5.98 (relating to child abuse recognition and reporting course approval process). The applicant shall certify on the application that the applicant has either completed the required training or has been granted an exemption under subsection (c). The Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the applicant or the applicant has obtained an exemption under subsection (c).

(b) Except as provided in subsection (c), licensees seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, at least 2 hours of approved continuing education in child abuse recognition and reporting, as a portion of the total continuing education required for biennial renewal. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 5.98. The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course within the applicable biennial renewal period or the licensee has obtained an exemption under subsection (c). If a licensee also holds a license issued by another licensing board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

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

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

(i) The applicant or licensee has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

(ii) The training was approved by the Department of Education in consultation with the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

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

(i) The applicant or licensee has already completed child abuse recognition training required by 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.

(3) The applicant or licensee submits documentation acceptable to the Board demonstrating why the applicant or licensee should not be subject to the training or continuing education requirement. The Board will not grant an exemption based solely upon proof that children are not a part of the applicant's or licensee's practice. Each request for an exemption under this paragraph will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances.

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

**§ 5.98. Child abuse recognition and reporting course approval process.**

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

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

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

(b) Submissions shall include all of the following:

(1) Contact information (mailing address, e-mail address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) Course related materials, including as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript or recording of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which shall include all of the following:

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

(iv) Length of training (2 or 3 hours).

(v) Name and signature of the authorized representative of the provider. The signature may be an electronic signature.

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

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the individual, entity or organization in writing upon approval of the course and will post a list of approved courses on the Bureau's web site and the Board's web site.

[Pa.B. Doc. No. 22-1692. Filed for public inspection November 4, 2022, 9:00 a.m.]

## GAME COMMISSION

### [ 58 PA. CODE CHS. 131 AND 135 ]

#### Preliminary Provisions; Definitions; Lands and Buildings; State Game Lands

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its September 24, 2022, meeting to amend §§ 131.2 and 135.41 (relating to definitions; and State game lands) to restrict the operation of boats propelled by electric motors on waterways owned or controlled by the Commission to slow, no-wake speed.

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

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

This proposed rulemaking was made public at the September 24, 2022, meeting of the Commission. Comments can be sent until January 28, 2023, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

With the advancements being made in the use of electric marine motors and the batteries that they use, it is time to revisit the Commission's regulations relating to their use on waterways owned or controlled by the

Commission. Today's electric motors are more powerful than the electric motors that existed when the regulations were created. The Commission's applicable regulations were created with the intent to allow boaters to safely use our waterways with little conflict with other users and to limit the noise and the impact of gasoline motors have on the environment through gasoline spills and erosion issues. New electric motors are now offered in higher horsepower (HP) sizes than has historically been available with older, more traditional electric trolling motors. Current costs of the newer electric motors are high. (Example: 50 HP electric outboard motor is currently around \$8,500, plus a matching deep cycle battery costs of around \$5,000.) While the new technology costs are usually high, those costs are expected to come down and their use and availability more prolific. In an effort to be proactive, the Commission is proposing to amend §§ 131.2 and 135.41 to restrict the operation of boats propelled by electric motors on waterways owned or controlled by the Commission to slow, no-wake speed. The Fish and Boat Commission has recently proposed similar changes to their regulations on electric motors by limiting the operation of electric motors to slow, no-wake speeds.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations consistent with the purpose of this title for its use and protection as necessary to properly manage these lands or waters." The amendments to §§ 131.2 and 135.41 are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend §§ 131.2 and 135.41 to restrict the operation of boats propelled by electric motors on waterways owned or controlled by the Commission to slow, no-wake speed.

#### 3. Persons Affected

Persons wishing to use boats propelled by electric motors on waterways owned or controlled by the Commission will be affected by this proposed rulemaking.

#### 4. Cost and Paperwork Requirements

This proposed rulemaking should not result in any additional cost or paperwork.

#### 5. Effective Date

This 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 this proposed rulemaking, contact Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-490. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 131. PRELIMINARY PROVISIONS

#### § 131.2. Definitions.

In addition to the definitions contained in section 102 of the act (relating to definitions), the following words and

terms, when used in this part or in the act, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Regular small game hunting season*—The designated period of time when resident small game species may be hunted and taken.

**Slow, no wake speed**—The slowest possible speed of a motorboat required to maintain maneuverability so that the wake or wash created by the motorboat on the surface of the water is minimal.

*Special firearms deer season*—Any firearms deer season, except muzzleloader season, that precedes the regular firearms deer season.

\* \* \* \* \*

**CHAPTER 135. LANDS AND BUILDINGS**

**Subchapter C. STATE GAME LANDS**

**§ 135.41. State game lands.**

\* \* \* \* \*

(c) *Additional prohibitions.* In addition to the prohibitions contained in the act pertaining to State game lands and § 135.2, except with the written permission of the Director, it is unlawful to:

\* \* \* \* \*

(7) Drive motor vehicles with or without attachments having a registered gross vehicle weight in excess of 12,000 pounds.

(8) Use **[ boats ] a boat** propelled by a motor **or operate a boat in excess of slow, no wake speed. [ Battery powered electric motors may be used on waterways unless posted otherwise ] Boats propelled by electric motors are authorized for use on waterways when operated at slow, no-wake speed unless the waterway is otherwise posted closed to all boats or all boats propelled by a motor.**

(9) Consume, possess or transport any alcohol, liquor, beer, malt or brewed alcoholic beverage.

\* \* \* \* \*

[Pa.B. Doc. No. 22-1693. Filed for public inspection November 4, 2022, 9:00 a.m.]

**GAME COMMISSION**

**[ 58 PA. CODE CH. 141 ]**

**Hunting and Trapping; General**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its September 24, 2022, meeting to amend § 141.6 (relating to illegal devices) to allow the use of body gripping traps with a spread larger than 6 1/2" × 6 1/2" for river otters.

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

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

This proposed rulemaking was made public at the September 24, 2022, meeting of the Commission. Com-

ments can be sent until January 28, 2023, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

**1. Purpose and Authority**

Currently, § 141.6 states that "It is unlawful to... [u]se body gripping traps with a spread larger than 6 1/2" × 6 1/2" for a furbearer except beaver." The agency has allowed body gripping traps to be used for otter trapping since the creation of the season, but only up to the 6 1/2" × 6 1/2" size. The Commission is proposing to amend § 141.6 to allow the use of body gripping traps with a spread larger than 6 1/2" × 6 1/2" for river otters as well. The Commission has determined that there are no significant biological concerns with this change.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "...promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." The amendments to § 141.6 are proposed under this authority.

**2. Regulatory Requirements**

This proposed rulemaking will amend § 141.6 to allow the use of body gripping traps with a spread larger than 6 1/2" × 6 1/2" for river otters as well.

**3. Persons Affected**

Persons wishing to use body gripping traps with a spread larger than 6 1/2" × 6 1/2" to harvest an otter will be affected by this proposed rulemaking.

**4. Cost and Paperwork Requirements**

This proposed rulemaking should not result in any additional cost or paperwork.

**5. Effective Date**

This 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 this proposed rulemaking, contact Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-488. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter A. GENERAL**

**§ 141.6. Illegal devices.**

It is unlawful to:

\* \* \* \* \*

(2) Use snares to take wildlife or furbearers except beavers may be taken with snares completely or partially submerged in water in a waterway or watercourse, marsh, pond or dam.

(3) Use body gripping traps with a spread larger than 6 1/2" x 6 1/2" for [ a furbearer ] any furbearer, except beaver and otter.

(4) Use a cage or box trap capable of catching more than one furbearer at a time.

\* \* \* \* \*

[Pa.B. Doc. No. 22-1694. Filed for public inspection November 4, 2022, 9:00 a.m.]

## GAME COMMISSION

### [ 58 PA. CODE CH. 147 ]

#### Special Permits; Furbearer Hunting-Trapping Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its September 24, 2022, meeting to amend § 147.701 (relating to general) to create a universal reporting period of 48 hours for bobcat, fisher and otter harvests.

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

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

This proposed rulemaking was made public at the September 24, 2022, meeting of the Commission. Comments can be sent until January 28, 2023, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

Section 147.701 currently establishes a 48-hour reporting period for any person taking a bobcat or fisher. This section also establishes a 24-hour reporting period for any person taking an otter. The Commission originally established the shorter reporting window for the 2015-2016 otter season to allow Game Wardens to inspect the carcass to confirm it was taken during the open season. Today, after the seventh year of otter trapping, the season has increased from only two open wildlife management units (WMU) and a 3-day season to five open WMUs and an 8-day season. With these expanding opportunities, the Commission's concerns with furtakers harvesting early and reporting during the season have diminished. Furthermore, reporting otter harvests within 48 hours of harvest is now considered acceptable, especially in light of the confusion shared by many furtakers that was caused by the differing reporting periods. The Commission is proposing to amend § 147.701 to create a universal reporting period of 48 hours for bobcat, fisher and otter harvests. The amendments to § 147.701 will not take effect until the 2023-2024 license year. For the 2022-2023 license year, otter reporting will be taken by HuntFishPA, the same method used for reporting bobcat and fisher harvests and CITES tags will be mailed in a similar manner to bobcat CITES tags.

Section 2901(b) of the code (relating to authority to issue permits) provides "...the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The amendments to § 147.701 are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend § 147.701 to create a universal reporting period of 48 hours for bobcat, fisher and otter harvests.

#### 3. Persons Affected

Persons holding an otter harvest permit within the Commonwealth will be affected by this proposed rulemaking.

#### 4. Cost and Paperwork Requirements

This proposed rulemaking should not result in any additional cost or paperwork.

#### 5. Effective Date

This 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 this proposed rulemaking, contact Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-487. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 147. SPECIAL PERMITS

#### Subchapter S. FURBEARER HUNTING-TRAPPING PERMITS

#### § 147.701. General.

This section provides for permits to be issued for the hunting and trapping of bobcat and the trapping of otter and fisher during the seasons established and in areas designated under § 139.4 (relating to seasons and bag limits for the license year).

\* \* \* \* \*

(4) Tagging requirements are as follows:

(i) A permitted person taking a bobcat, **fisher or otter [ or fisher ]** shall immediately, before removing the animal from the location of the taking, fully complete and attach to the animal a carcass tag furnished with the permit. The carcass tag must remain attached to the animal until a Convention on International Trade in Endangered Species (CITES) tag is attached, if applicable, or the animal is mounted, tanned, made into a commercial fur or prepared for consumption.

(ii) A permitted person taking a bobcat [ or ], fisher **or otter** shall report the harvest to the Commission within 48 hours of the taking by a means specified by the Director. **[ A permitted person taking an otter shall report the harvest to the Commission within 24 hours of the taking by a means specified by the Director. ]**

(iii) A CITES tag for a bobcat or otter taken under this permit will be provided by the Commission in the event that the bobcat, otter or any parts thereof are exported internationally or upon request of the permittee. The CITES tag shall immediately be locked through the eyes of the pelt or, in the event of any other part, locked through and attached to the part. The CITES tag must

remain attached to the animal until it is mounted, tanned, made into a commercial fur or prepared for consumption.

\* \* \* \* \*

[Pa.B. Doc. No. 22-1695. Filed for public inspection November 4, 2022, 9:00 a.m.]

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