

PROPOSED RULEMAKING

STATE BOARD OF LANDSCAPE ARCHITECTS

[49 PA. CODE CH. 15]

Licensure by Endorsement

The State Board of Landscape Architects (Board) proposes to amend §§ 15.1 and 15.57 (relating to definitions; and registration by endorsement) and add §§ 15.58 and 15.59 (relating to licensure by endorsement under 63 Pa.C.S. § 3111; and provisional endorsement licensure) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires licensing boards and commissions to “issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth” provided the applicant meets the following criteria: 1) “[h]olds a current license, certificate, registration or permit from another state, territory or country” whose licensing “requirements are substantially equivalent to or exceed the requirements. . . in this Commonwealth[;]” 2) “[d]emonstrates competency[;]” 3) “[h]as not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the board or commission determines” the conduct is not an impediment to granting the “license, certificate, registration or permit[;]” 4) “[i]s in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the . . . board or . . . commission determines” this conduct is not an impediment to granting the “license, certificate, registration or permit[;]” and 5) the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to “issue a provisional license, certificate, registration or permit” while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. Further, section 4(9) of the Landscape Architects’ Registration Law (act) (63 P.S. § 904(9)) authorizes the Board to adopt and promulgate administrative rules and regulations, not inconsistent with the act, as are deemed necessary and proper by the Board to carry into effect the powers conferred by the act.

The act of July 1, 2020 (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) into 63 Pa.C.S. Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41).

Background and Need for the Amendments

This proposed rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license to applicants who meet the requirements for licensure by endorsement. Under 63 Pa.C.S. § 3111(a)(1), the Board must determine whether the jurisdiction’s standards for licensure are substantially equivalent to or

exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111(a)(2) requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application. Under 63 Pa.C.S. § 3111(b)(2), the Board must establish, by regulation, the expiration of the provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement, including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license. Applicants for licensure by endorsement will pay the application fee for licensure by endorsement, as provided in § 15.12 (relating to fees).

Description of the Proposed Amendments

The Board proposes to amend § 15.1 to include a definition of the term “jurisdiction” consistent with 63 Pa.C.S. § 3111. The Board also proposes to amend § 15.57 to follow through with the term “jurisdiction” in place of “state, territory or country” consistent with 63 Pa.C.S. § 3111, and to rename the section to distinguish registration by endorsement under the act from licensure by endorsement under 63 Pa.C.S. § 3111.

The Board further proposes to add § 15.58, to set forth the six criteria required for licensure by endorsement under 63 Pa.C.S. § 3111. Under proposed subsection (a)(1), an applicant shall have a current license, certificate, registration or permit in good standing to practice landscape architecture in another jurisdiction whose standards are substantially equivalent to those established by the Board. Proposed subsection (a)(1) further requires an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. This proposed rulemaking would also require that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because 63 Pa.C.S. § 3111 is applicable to territories and other countries that use languages other than English, if the applicable law, regulation or other rule is in a language other than English, the Board would require, at the applicant’s expense, translation of the applicable law, regulation or other rule into English by a professional translation service.

Proposed subsection (a)(2) requires demonstration of competency. Under this provision, an applicant must provide proof of competency by demonstrating experience in the practice of landscape architecture, completion of continuing education or evidence of having passed the National licensure examination for landscape architects within a certain time frame. To demonstrate competency by experience, an applicant must demonstrate active engagement in the practice of landscape architecture under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions, for at least 2 of the 5 years immediately preceding the filing of the application. To demonstrate competency through completion of continuing education, an applicant must submit proof of completion of 24 hours of continuing education which meets the requirements of section 9.1 of the act (63 P.S. § 909.1), pertaining to professional competency requirements, and §§ 15.71—15.81 (relating to continuing education). The continuing education must be completed during the 24 months immediately preced-

ing the date of the application. The Board proposes completion of the continuing education within 24 months immediately preceding the date of the application because a 24-month limitation correlates with the Board's continuing education requirements for existing licensees to biennially renew their licenses. Finally, competency may be demonstrated by providing documentation of having successfully completed all parts of the national licensing examination, the Landscape Architect Registration Exam (LARE). For many years, passage of the exam has been one of the criteria for the Board's existing endorsement pathway (registration by endorsement under § 15.57). For applicants for licensure by endorsement under 63 P.S. § 3111 who cannot establish competency through experience or continuing education, the Board will accept a passing score on the LARE or its equivalent, as determined by the Board, provided the passing score was obtained at least 2 or more years, but no more than 5 years, prior to applying for licensure by endorsement in this Commonwealth.

Proposed subsection (a)(3) and (4) incorporate the statutory prohibitions in 63 Pa.C.S. § 3111 pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession or occupation, and prior discipline by the jurisdiction that issued the license.

Proposed subsection (a)(5) provides for payment of an application fee, as required by 63 Pa.C.S. § 3111(a)(5). The applicable fee for licensure by endorsement under 63 Pa.C.S. § 3111 is the same as the current fee for endorsement applications provided in the Board's fee schedule at § 15.12, namely \$45. Next, proposed subsection (a)(6) requires applicants to apply for licensure in accordance with the act and Chapter 15 (relating to State Board of Landscape Architects) in the manner and format prescribed by the Board. In proposed § 15.58(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. When a personal interview is necessary, the applicant may request the interview to be conducted by video teleconference for good cause shown.

Consistent with 63 Pa.C.S. § 3111(a)(3) and (4), proposed § 15.58(c) authorizes the Board, in its discretion, to determine that an act prohibited under section 4 of the act or § 15.63 (relating to misconduct) or disciplinary action by another jurisdiction are not impediments to the granting of a license, certificate, registration or permit by endorsement under 63 Pa.C.S. § 3111. Boards routinely consider whether discipline or prohibited acts are impediments to licensure. The types of things boards consider include the facts and circumstances surrounding the prohibited act or disciplinary action; an increase in age or maturity of the individual since the date of the prohibited act or disciplinary action; disciplinary history or lack of disciplinary history before and after the date of the prohibited act or disciplinary action; successful completion of education and training activities relating to the prohibited act or disciplinary action; and any other information relating to the fitness of the individual for licensure.

Consistent with 63 Pa.C.S. § 3111(b), proposed § 15.59 provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying the remaining requirements under 63 Pa.C.S. § 3111 and proposed § 15.58. Proposed § 15.59(b) sets the expiration of a provisional endorsement license at 1 year, unless the Board determines that an expiration date of less than 1 year is appropriate. Additionally, upon

a written request, the Board may extend the term of the license upon a showing of good cause.

Proposed § 15.59(c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board denies or grants a license, or the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license.

Proposed § 15.59(d) clarifies that while an individual may reapply for a license by endorsement under proposed § 15.58, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

Finally, under proposed § 15.59(e) the Board makes clear that holders of provisional licenses must follow the rules governing the proper use of a registrant's seal as set forth in section 9 of the act (63 P.S. § 909) and § 15.33 (relating to seals).

Fiscal Impact and Paperwork Requirements

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement under 63 Pa.C.S. § 3111 will be recouped through fees paid by applicants. Applicants who apply for licensure by endorsement will be impacted by the \$45 endorsement application fee as set forth in § 15.12 and may incur expenses relating to completing continuing education hours if they choose to demonstrate competency in that manner or costs associated with passing of the examination if they choose that option for demonstrating competency. Applicants who demonstrate competency through experience will have to pay the \$45 initial application fee.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 10, 2024, 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 chairperson of the Consumer Protection and Professional Licensure Committee of the Senate and the chairperson of the Professional Licensure Committee House of Representatives for review and comment. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to the Board Counsel, State Board of Landscape Architects, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-STRegulatoryCounsel@pa.gov within

30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference “16A-6121 (Licensure by Endorsement)” when submitting comments.

DINA KLAVON, RLA,
Chairperson

Fiscal Note: 16A-6121. No fiscal impact; recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 15. STATE BOARD OF LANDSCAPE ARCHITECTS

GENERAL PROVISIONS

§ 15.1. Definitions.

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

* * * * *

Grade and character satisfactory to the Board—A varied and increased level of experience and responsibility evidenced by a comprehensive work sample, technical knowledge and professional experience.

Jurisdiction—A state, territory or country.

Responsible charge—Under section 2(5) of the act (63 P.S. § 902(5)), for experience to be satisfactory to the Board, it shall be progressive and of an increasing standard of quality and responsibility.

[EXAMINATIONS] REGISTRATION AND LICENSURE BY EXAMINATION AND BY ENDORSEMENT

§ 15.57. Registration by endorsement under section 6 of the act.

(a) *General requirements.* An applicant who has passed the examination, holds an unexpired license from another **[state or foreign country] jurisdiction**, has a graduate or undergraduate degree in landscape architecture from an approved institution or college and possesses 2 years of practical experience in landscape architecture of a grade or character satisfactory to the Board, may be granted registration by endorsement following the filing of an application and a Board review of the applicant’s comprehensive work sample.

(b) *Endorsement.*

(1) An applicant who requests registration by endorsement shall submit with the application an official certification of registration in the applicant’s home **[state, territory or country] jurisdiction** from the secretary of the examining or registration board or other certifying official, stating on what basis registration was granted, whether by oral or written examination or exemption, and whether the registration is in good standing at the time of the application for registration in this Commonwealth.

(2) An applicant who requests registration by endorsement shall submit with the application complete information relative to training, education and experience as may be required by the Board.

(c) *Exception.* An applicant who received a license from another jurisdiction, without having passed the examination, is not entitled to registration by endorsement.

(*Editor’s Note:* Sections 15.58 and 15.59 are proposed to be added and are printed in regular type to enhance readability.)

§ 15.58. Licensure by endorsement under 63 Pa.C.S. § 3111.

(a) *Requirements for issuance.* To be issued a license by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement), an applicant shall satisfy all of the following conditions:

(1) Have a current license, certification, registration or permit in good standing to practice landscape architecture in another jurisdiction whose standards are substantially equivalent to or exceed those established under section 6(a) and (b) of the act (63 P.S. § 906(a) and (b)), §§ 15.41, 15.53 and 15.54 (relating to general requirements; grading; and registration by examination). The following apply:

(i) An applicant shall submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit.

(ii) If the applicable law, regulation or other rule is in a language other than English, at the applicant’s expense, the applicable law, regulation or other rule shall be translated into English by a professional translation service and verified to be complete and accurate.

(iii) The copy of the applicable law, regulation or other rule must include the enactment date.

(2) Demonstrate competency by one of the following:

(i) Experience in the practice of landscape architecture by demonstrating, at a minimum, that the applicant has actively engaged in the practice of landscape architecture under a license, certificate, registration or permit in a substantially equivalent jurisdiction, or jurisdictions, for at least 2 of the 5 years immediately preceding the filing of the application with the Board.

(ii) Completion of 24 clock hours of continuing education that meet the requirements of section 9.1 of the act (63 P.S. § 909.1) and §§ 15.71—15.81 (relating to continuing education) during the 24 months immediately preceding the date of the application.

(iii) Documentation of having achieved a passing score on the Landscape Architect Registration Examination (LARE) or its equivalent, as determined by the Board, provided the passing score was achieved at least 2 or more years but no longer than 5 years prior to the date of the application.

(3) Have not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certification, registration or permit to practice landscape architecture under section 4 of the act (63 P.S. § 904) or § 15.63 (relating to misconduct).

(4) Have not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.

(5) Have paid the application for licensure by endorsement fee as required by § 15.12 (relating to fees).

(6) Have applied for licensure in accordance with this chapter in the manner and format prescribed by the Board.

(b) *Interview and additional information.* An applicant may be required to appear before the Board for a personal interview and may be required to submit additional information, including supporting documentation relating to competency and experience. The applicant may request that the interview be conducted by video teleconference for good cause shown.

(c) *Prohibited acts and discipline.* Notwithstanding subsection (a)(3) and (4), the Board may, in its discretion, determine that an act prohibited under section 4 of the act or § 15.63, or disciplinary action by another jurisdiction, are not impediments to licensure under 63 Pa.C.S. § 3111.

§ 15.59. Provisional endorsement licensure.

(a) *Provisional endorsement license.* The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying the remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 15.58 (relating to licensure by endorsement under 63 Pa.C.S. § 3111).

(b) *Expiration of a provisional endorsement license.*

(1) An individual holding a provisional endorsement license may practice for up to 1 year after issuance of the provisional endorsement license. The Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon a written request and a showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) *Termination of a provisional endorsement license.* A provisional endorsement license terminates if any of the following occurs:

(1) When the Board completes its assessment of the applicant and denies or grants the license.

(2) When the holder of the provisional license fails to comply with the terms of the provisional endorsement license.

(3) When the provisional endorsement license expires.

(d) *Reapplication.* An individual may reapply for licensure by endorsement under § 15.58 after expiration or termination of a provisional endorsement license; however, the individual will not be issued a subsequent provisional endorsement license.

(e) *Use of seal.* An individual issued a provisional endorsement license shall follow the rules governing the proper use of a registrant's seal under section 9 of the act (63 P.S. § 909) and § 15.33 (relating to seals).

[Pa.B. Doc. No. 24-1017. Filed for public inspection July 19, 2024, 9:00 a.m.]

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Licensure by Endorsement

The State Board of Dentistry (Board) proposes to amend § 33.1 (relating to definitions) and add §§ 33.107a and 33.107b (relating to licensure by endorsement; and provisional endorsement license) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 3111 of 63 Pa.C.S. (relating to licensure by endorsement) requires licensing boards and commissions to “issue a license, certificate, registration or permit to an applicant to allow practice in this Commonwealth” provided the applicant meets the following criteria: “[h]olds a current license, certificate, registration or permit from another state, territory or country” whose “licensing. . . requirements are substantially equivalent to or exceed the requirements. . . in this Commonwealth[.]” “demonstrates competency[.]” “[h]as not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice that profession or occupation in this Commonwealth, unless the. . . board or. . . commission determines” the conduct is not an impediment to granting the “license, certificate, registration or permit[.]” “[i]s in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration or permit, unless the. . . board or. . . commission determines” this conduct is not an impediment to granting the “license, certificate, registration or permit” and the applicant pays fees, as established by regulation. Additionally, 63 Pa.C.S. § 3111 authorizes boards and commissions to “issue a provisional license, certificate, registration or permit” while an applicant is satisfying remaining requirements for licensure by endorsement, for which the Board must set by regulation the terms of expiration. Section 3(o) of The Dental Law (act) (63 P.S. § 122(o)) grants the Board authority “[t]o adopt, promulgate, and enforce such rules and regulations as may be deemed necessary by the board and proper to carry into effect the powers hereby conferred.”

The act of July 1, 2020 (P.L. 575, No. 53) added 63 Pa.C.S. § 3111 as part of the consolidation of the act of July 2, 1993 (P.L. 345, No. 48) into 63 Pa.C.S. Chapter 31 (relating to powers and duties). The text of 63 Pa.C.S. § 3111 was originally added to Act 48 by the act of July 1, 2019 (P.L. 292, No. 41).

Background and Need for the Amendments

This proposed rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license, certificate, registration or permit to applicants who meet the requirements for licensure by endorsement as set forth in 63 Pa.C.S. § 3111. Under 63 Pa.C.S. § 3111, the Board must determine whether standards for licensure are substantially equivalent to or exceed those established by the Board. Additionally, 63 Pa.C.S. § 3111 requires the Board to determine the methods of competency, including completion of continuing education or experience in the profession or occupation for at least 2 of the 5 years immediately preceding the filing of the application, and must establish, by regulation, the expiration of a provisional endorsement license. This proposed rulemaking sets forth the criteria for eligibility for licensure by endorsement for dentists, dental hygienists and expanded function dental assistants (EFDA), including the specific methods required for an applicant to demonstrate competency as well as requirements for granting a provisional endorsement license.

Description of the Proposed Amendments

The Board proposes to amend § 33.1 by adding a definition for the term “jurisdiction” consistent with

63 Pa.C.S. § 3111. Proposed § 33.107a requires an applicant to satisfy seven criteria required for licensure by endorsement. Under proposed subsection (a)(1), an applicant shall have a current license, certification, registration or permit in good standing to practice in another jurisdiction whose standards are substantially equivalent to or exceed standards established under section 3(c), (d) and (d.1) of the act, and §§ 33.102 and 33.103 (relating to professional education; and examinations). Proposed subsection (a)(1) further requires an applicant to submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit. This proposed rulemaking would also require that the copy of the applicable law, regulation or other rule include the enactment date. Additionally, because 63 Pa.C.S. § 3111 is applicable to territories and other countries that use languages other than English, where the applicable law, regulation or other rule is in a language other than English, the Board would require, at the applicant's expense, translation of the applicable law, regulation or other rule by a professional translation service.

Proposed subsection (a)(2) requires demonstration of competency. Under this provision, an applicant must provide proof of competency by demonstrating experience in the practice of the profession. To demonstrate competency by experience, an applicant must demonstrate active engagement in the practice of the profession for at least 2 of the 5 years immediately preceding the filing of the application under a license, certificate, registration or permit in a substantially equivalent jurisdiction or jurisdictions, that issued the license, certificate, registration or permit.

Proposed subsection (a)(3) and (4) incorporate the statutory prohibitions in 63 Pa.C.S. § 3111 pertaining to conduct that would constitute grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession, and prior discipline by the jurisdiction that issued the license.

Proposed subsection (a)(5) provides for payment of an application fee, as required by 63 Pa.C.S. § 3111(a)(5). The applicable fees for licensure by endorsement are in the Board's existing fee schedule in § 33.3 (relating to fees) under "application fees."

Next, proposed subsection (a)(6) requires that applicants meet the professional liability requirements under the act and Chapter 33, including compliance with professional liability insurance requirements as set forth in section 3.2 of the act (63 P.S. § 122.2).

Finally, proposed subsection (a)(7) requires completion of 3 hours of training in child abuse recognition and reporting, which is mandated continuing education under 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training) and § 33.256 (relating to child abuse recognition and reporting—mandatory training requirement).

In proposed § 33.107a(b), the Board may require a personal interview or additional information to assist the Board in determining eligibility and competency. When a personal interview is necessary, to the extent practicable, the Board intends to offer flexibility in the manner in which an interview is conducted to include teleconference or video conferencing.

Consistent with 63 Pa.C.S. § 3111(a)(3) and (4), subsection (c) gives the Board discretion to determine that an act prohibited under section 4.1 of the act (63 P.S. § 123.1) or disciplinary action by another jurisdiction are

not impediments to the granting of a license, certification, registration or a permit by endorsement under 63 Pa.C.S. § 3111. Boards routinely consider whether discipline or prohibited acts are impediments to licensure. The types of things Boards consider include the facts and circumstances surrounding the prohibited act or disciplinary action; an increase in age or maturity of the individual since the date of the prohibited act or disciplinary action; disciplinary history or lack of disciplinary history before and after the date of the prohibited act or disciplinary action; successful completion of education and training activities relating to the prohibited act or disciplinary action; and any other information relating to the fitness of the individual for licensure.

Consistent with 63 Pa.C.S. § 3111(b), proposed § 33.107b provides that the Board, in its discretion, may issue a provisional endorsement license while an applicant is satisfying remaining requirements under 63 Pa.C.S. § 3111 and proposed § 33.107a. Proposed subsection (b)(1) sets the expiration of a provisional endorsement license at 1 year, unless the Board determines that an expiration date of less than 1 year is appropriate. Additionally, under paragraph (2), upon a written request, the Board may extend the term of the license upon a showing of good cause. Proposed subsection (c) sets forth reasons for which a provisional endorsement license will be terminated by the Board, including when the Board grants or denies a license, the provisional endorsement licensee fails to comply with the terms of a provisional endorsement license or the provisional endorsement license expires. Finally, proposed subsection (d) clarifies that while an individual may reapply for a license by endorsement under proposed § 33.107a, the Board will not issue a subsequent provisional endorsement license to an applicant who previously held a provisional endorsement license that expired or was terminated.

Fiscal Impact and Paperwork Requirements

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The costs to the Board related to processing applications for licensure by endorsement will be recouped through fees paid by applicants. Under § 33.3, all applicants, including licensure by endorsement applicants, must pay an application fee (\$235 application fee for dentists, \$140 application fee for dental hygienists and \$110 application fee for EFDAs). Applicants must complete child abuse recognition and reporting training, as required by 23 Pa.C.S. § 6383(b)(3)(i). There are free in-person and online child abuse recognition and reporting training options available; therefore, the Board does not anticipate a negative fiscal impact for this statutorily mandated training.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 10, 2024, 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 chairperson of the Consumer Protection and Professional Licensure Committee of the Senate and the chairperson of the Professional Licensure Committee of the House of Representatives. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to the Regulatory Counsel, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-STRegulatoryCounsel@pa.gov within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference “16A-4635 (Licensure by Endorsement)” when submitting comments.

JENNIFER UNIS SULLIVAN, DMD, JD,
Chairperson

Fiscal Note: 16A-4635. No fiscal impact; recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.1. Definitions.

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

* * * * *

Individual study—A course of continuing education offered by an approved program sponsor, which permits the participant to learn without interacting with an instructor or interactive learning methodologies and which requires a passing grade on a written examination or workbook.

Jurisdiction—A state, territory or country.

Local anesthesia—The elimination of sensations, especially pain, in one part of the body by regional injection of an anesthetic agent.

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Subchapter B. LICENSURE OF DENTISTS AND DENTAL HYGIENISTS AND CERTIFICATION OF EXPANDED FUNCTION DENTAL ASSISTANTS

(*Editor’s Note:* Sections 33.107a and 33.107b are proposed to be added and are printed in regular type to enhance readability.)

§ 33.107a. Licensure by endorsement.

(a) *Requirements for issuance.* To be issued a license by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement), an applicant shall satisfy all of the following conditions:

(1) Have a current license, certification, registration or permit in good standing to practice as a dentist, dental hygienist or expanded function dental assistant in an-

other jurisdiction whose licensure standards are substantially equivalent to or exceed those established under section 3(c), (d) and (d.1) of the act (63 P.S. § 122(c), (d) and (d.1)) and §§ 33.102 and 33.103 (relating to professional education; and examinations).

(i) An applicant shall submit a copy of the current applicable law, regulation or other rule governing licensure, certification, registration or permit requirements and scope of practice in the jurisdiction that issued the license, certificate, registration or permit.

(ii) If the applicable law, regulation or other rule and scope of practice is in a language other than English, at the applicant’s expense, the applicable law, regulation or other rule and scope of practice shall be translated by a professional translation service and verified to be complete and accurate.

(iii) The copy of the applicable law, regulation or other rule and scope of practice must include the enactment date.

(2) Demonstrate competency by establishing experience in the practice of the profession by demonstrating, at a minimum, that the applicant has actively engaged in the licensed practice of their profession under a license, certificate, registration or permit in a jurisdiction or jurisdictions that have substantially equivalent licensure standards for at least 2 of the 5 years immediately preceding the filing of the application with the Board.

(3) Have not committed any act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice under section 4.1 of the act (63 P.S. § 123.1).

(4) Have not been disciplined by the jurisdiction that issued the license, certificate, registration or permit.

(5) Have paid the required application fee as required by § 33.3 (relating to fees).

(6) Have applied for licensure in accordance with this chapter in the manner and format prescribed by the Board, including satisfaction of the professional liability insurance requirements under the act in section 3.2 of the act (63 P.S. § 122.2).

(7) Have completed 3 hours of training in child abuse recognition and reporting from a provider approved by the Department of Human Services as required under 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training) and § 33.256 (relating to child abuse recognition and reporting—mandatory training requirement).

(b) *Interview and additional information.* An applicant may be required to appear before the Board for a personal interview and may be required to submit additional information, including supporting documentation relating to competency and experience. The applicant may request the interview to be conducted by video teleconference for good cause shown.

(c) *Prohibited acts and discipline.* Notwithstanding subsection (a)(3) and (4), the Board may, in its discretion, determine that an act prohibited under section 4.1 of the act or a disciplinary action by another jurisdiction are not impediments to the granting of a license under 63 Pa.C.S. § 3111.

§ 33.107b. Provisional endorsement license.

(a) *Provisional endorsement license.* The Board may, in its discretion, issue a provisional endorsement license to an applicant while the applicant is satisfying the remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 33.107a (relating to licensure by endorsement).

(b) *Expiration of a provisional endorsement license.*

(1) An individual holding a provisional endorsement license may practice up to 1 year after the date of issuance of the provisional endorsement license. The Board, in its discretion, may determine that an expiration date of less than 1 year is appropriate.

(2) Upon written request and showing of good cause, the Board may grant an extension of no longer than 1 year from the expiration date of the provisional endorsement license.

(c) *Termination of a provisional endorsement license.* A provisional endorsement license terminates if any of the following occurs:

(1) When the Board completes its assessment of the applicant and grants or denies the license.

(2) When the holder of the provisional license fails to comply with the terms of a provisional endorsement license.

(3) When the provisional endorsement license expires.

(d) *Reapplication.* An individual may reapply for licensure by endorsement under § 33.107a after expiration or termination of a provisional endorsement license. The individual may not be issued a subsequent provisional endorsement license.

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