

# RULES AND REGULATIONS

## Title 31—INSURANCE

### INSURANCE DEPARTMENT

#### [ 31 PA. CODE CHS. 37 AND 37a ]

#### Insurance Producers

The Insurance Department (Department) deletes and reserves Chapter 37 and adopts, in its place, Chapter 37a (relating to requirements and standards) to read as set forth in Annex A.

#### *Statutory Authority*

This final-form rulemaking is made under the Department's general rulemaking authority as set forth in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412), section 6 of the act of September 22, 1978 (P.L. 763, No. 143) (40 P.S. § 246), section 698-A of The Insurance Department Act of 1921 (act) (40 P.S. § 310.98) and the Department's rulemaking authority under the Unfair Insurance Practices Act (40 P.S. §§ 1171.1—1171.15). See *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977) (further explaining the Insurance Commissioner's authority to promulgate regulations under the Unfair Insurance Practices Act).

#### *Background and Purpose*

The purpose of this final-form rulemaking is to provide additional clarification and modernization, where necessary, regarding the implementation of the act of December 6, 2002 (P.L. 1183, No. 147) (Act 147-2002). More than 20 years ago, Act 147-2002 (which is based upon the Producer Licensing Model Act) amended the act to bring the Commonwealth into compliance with the Federal Financial Services Modernization Act of 1999, known as the Gramm-Leach-Bliley Act (GLBA) (Pub.L. No. 106-102, 113 Stat. 1338). The GLBA required states to modernize and provide uniformity in their insurance licensing procedures.

Because Act 147-2002 codified and superseded many of the processes contained in the existing regulations at that time, Chapter 37, it was not immediately necessary to promulgate regulations under Article VI-A of the act (40 P.S. §§ 310.1—310.99a). The Department instead relied on the specific statutory language in Act 147-2002 to process insurance producer applications for licensure and enforcement matters. This final-form regulation will clarify several items within the statutorily prescribed process, resulting in a modernized and streamlined experience that will provide further transparency and efficiencies to the public, licensees and other stakeholders. Not every provision of Act 147-2002 requires clarification by regulation. As such, the Department did not promulgate regulations for those topics that are sufficiently and comprehensively addressed in the act.

#### *Comments and Responses*

The Insurance Federation of Pennsylvania (IFP) and the Independent Agents and Brokers (IAB) submitted comments during the public comment period. All comments were taken into consideration.

The IAB submitted a comment in support of the regulation, expressing its appreciation for the Department's collaboration throughout the process.

The IFP also expressed support for the regulation and indicated its appreciation for the Department's collaboration throughout the drafting process. The IFP brought forth six issues:

(1) The IFP raised a concern that § 37a.10(c) (relating to business entity license) could be read to conflict with subsection (d) in that it could be interpreted to require each individual licensee maintain all lines of authority for which the business entity is licensed. The IFP suggested the Department clarify that each individual licensee in a business entity need not maintain every line of authority of the business entity. In response to this comment, the Department amends subsection (c) of this final-form rulemaking to add the word "combined" and adds language to subsection (d) to clarify that the designated licensee or licensees of a business entity may hold the lines of authority "individually or in combination."

(2) With regard to § 37a.13 (relating to name on license), the IFP suggested that the Department utilize the standard found in 54 Pa.C.S. §§ 301—332 (relating to Fictitious Names Act) when a licensee is not using a proper name. In response to the IFP's comment, the Department clarifies subsection (b) with regard to the use of a fictitious name and adds subsection (c) to make clear that a fictitious name does not include a name that is a commonly known nickname or derivative of the name on the individual producer's license (for example, using the name "Dave" instead of "David").

(3) The IFP suggested the Department amend § 37a.20(b) (relating to representation of insurer or consumer) to clarify that an insurer that is dealing with a consumer through a producer who is not appointed by the insurer should not be held responsible for the unaffiliated producer's actions or omissions. In response, the Department deletes subsection (b) in its entirety as the provision is duplicative of existing case law and common law contract principles. See *Transcontinental Oil Co. v. Atlas Assur. Co.*, 123 A. 497 (1924); *Sands v. Granite Mut. Ins. Co.*, 331 A.2d 711 (1974); *Triage, Inc. v. Prime Ins. Syndicate, Inc.*, 887 A.2d 303 (Pa. Super. 2005).

(4) The IFP inquired as to whether existing provisions of Commonwealth law regarding electronic transactions apply to appointments and whether electronic transactions will satisfy the "in writing" requirement of § 37a.21(a)(1) (relating to appointments and termination of appointments). The Department agrees that an electronic submission will satisfy this requirement and amends this section accordingly by adding subsection (f) to clarify that written notifications as to appointments and terminations may be transmitted electronically if done in compliance with the Uniform Electronic Transactions Act (73 P.S. §§ 2260.1—2260.503). However, the Department notes that section 354.7 of The Insurance Company Law of 1921 (40 P.S. § 477b.7), pertaining to electronic delivery of information and posting of policies and endorsements, is not applicable, as this statutory provision deals only with notifications to insureds, not producers.

(5) The IFP suggested the Department delete the phrases "in a form and format approved by the department" and "at least" in § 37a.21(a)(3) to improve clarity that the insurer's notice of appointment form must include the content set forth in the regulation and to eliminate the need for Department approval of each form. As suggested, the Department deletes this language in this final-form rulemaking.

(6) Finally, the IFP suggested that the Department add a sentence to § 37a.21(b)(1) that notification of an appointment termination to a business entity shall be sufficient notification for individual producers affiliated with the business entity. The Department is unable to make this change because under section 671-A of the act (40 P.S. § 310.71), all producers (irrespective of whether they are individual producers or business entities) are appointed separately. Additionally, notification must be made to each producer's home address as required by section 671.1-A(d)(1) of the act (40 P.S. § 310.71a(d)(1)).

The Independent Regulatory Review Commission (IRRC) submitted an 18-part comment letter raising several organizational and clarification issues that are explained fully as follows.

(1) Citing compliance with Executive Order 1996-1 (4 Pa. Code §§ 1.371—1.382 (relating to regulatory review and promulgation)), IRRC noted that the regulation is not written or organized in a fashion that would enable an applicant to easily determine requirements for initial or continued licensure, primarily because some requirements exist in the act and others in the regulation. As confirmed by both the IFP and the IAB in their comments, the Department worked extensively and collaboratively with the industry on this draft and neither stakeholder group expressed any difficulty with the structure or format of the regulation. As previously noted, when Act 147-2002 was enacted, it set forth comprehensive standards for licensure of insurance producers and the then-existing regulations in Chapter 37 were not updated immediately. Act 147-2002 superseded most of the provisions in the current regulation without the need for additional detail. The necessary regulatory clarifications in this final-form rulemaking have been organized to mirror the structure of the previous regulations in Chapter 37, ensuring continuity and ease of use for the regulated community. In response to this comment, the Department emphasizes the statutory requirements for initial licensure and renewal for both individual and business entities applicants in §§ 37a.7 and 37a.9 (relating to general application requirements; and license renewals). In addition, further descriptive changes are made to clarify potential ambiguities in the regulations where ambiguity may exist, such as described in § 37a.8 (relating to completion of application and renewal forms) and §§ 37a.10 and 37a.21. However, completely reorganizing this final-form rulemaking or reiterating clear statutory requirements may be redundant and potentially confusing, especially if the underlying statutes change. This would require that the Department amend the regulations, an outcome it seeks to avoid.

IRRC also notes several provisions in Act 147-2002 that are not addressed in this final-form rulemaking. As previously noted, because of the comprehensive nature of Act 147-2002, clarification is not necessary for every provision of Act 147-2002. After careful review, the Department determines that additional regulatory clarification is unnecessary for the following topics, as they are comprehensively addressed in the act: section 606.1A (regarding change of home state); section 609-A (regarding temporary licensing); section 610-A (regarding reciprocal licensing); section 614-A (regarding reciprocity); and section 678-A (regarding licensee reporting of misconduct).

With regard to the omission of a schedule of fees in the text of the regulation, the Department concurs that it may be difficult for the regulated community to locate each of the fees since most fees are included in numerous places in various statutes. Therefore, the Department was

included a schedule of these fees in § 37a.3 (relating to schedule of fees). Fees are also set forth on the Department's web site and are organized by subject matter area.

(2) With regard to § 37a.2 (relating to interpretation of the terms "principal place of business" and "principal place of residence"), IRRC suggests that the statutory context for the terms "principal place of business" and "principal place of residence" be included in the body of the regulations and questions why the terms are not included in § 37a.1 (relating to definitions). Section 605-A of the act (40 P.S. § 310.5) provides that an applicant with a principal place of business or residence within this Commonwealth may apply for a resident insurance producer license and, conversely, an applicant with a principal place of business or residence outside this Commonwealth may apply for a nonresident insurance producer license. However, the act fails to define the terms "principal place of business" or "principal place of residence." For this reason, the Department finds it necessary to clarify, through these regulations, its interpretation of these terms as used throughout the act. In response to IRRC's comment, the Department adds the statutory context to § 37a.2. However, since the terms are not used in the rulemaking itself, the Department cannot include them in the definition section.

(3) IRRC suggests that language be added to § 37a.6 (relating to administration of examination) indicating that the testing vendor's brochure is downloadable in an electronic format. The Department agrees and language is added to this final-form rulemaking to clarify that the brochure will be available in a downloadable format on the vendor's and the Department's web site.

(4) IRRC suggests that the requirements for pre-examination education and exemptions from the pre-examination education and examination requirement that are set forth in the act be included "in the final rulemaking or explain how their omission benefits the regulated community in achieving compliance." The Department considered this comment but suggests that clarifications are unnecessary with regard to the statutory requirements for pre-examination education or the statutory exemptions from the pre-examination education and examination requirements as set forth by the act. The statutory language of the act is exact and clear. Furthermore, if these statutory requirements or exemptions were to change, the regulations would create uncertainty as to what is actually required. The Department has instead referenced the applicable provisions of the act to ensure the information is easily located. Because reiteration of the statutory provisions in the regulations could cause confusion, and given the clarity of the act, the Department believes it unnecessary to restate them here.

(5) With regard to § 37a.8, IRRC suggests that the Department add a specific time period for closing an application if information is not provided as requested by the Department. This section is amended to add a 45-day time period and to clarify the closure of an application under this section will be treated as a withdrawal of the application by the applicant. IRRC also suggests that § 37a.8(d) and (e) are redundant because § 37a.16(a)(3) (relating to standards for denial of license and enforcement actions) address the consequences of making a false statement or failing to provide accurate or truthful information in an application. The Department agrees, and these subsections are amended to eliminate the

redundancies, but retain the clarifications as to which licensee is responsible for accuracy and completeness of the application.

(6) IRRC suggests that the Department include the “fundamental provisions” relating to continuing education requirements, exemptions, extenuating circumstances that support the waiver of the continuing education requirements, and lapses in licensure, as well as renewal fees for resident, nonresident and lapsed licenses set forth in section 608-A of the act (40 P.S. § 310.8) in the final version of the rulemaking. The Department amends this section to include an overview of the renewal requirements, including continuing education requirements, as well as lapses in licensure. The statute provides a comprehensive explanation regarding exemptions and extenuating circumstances. Therefore, the new language makes clear that these provisions exist but directs the reader back to the specific statutory provisions if further clarification is warranted. The fees are now included in the aforementioned fee schedule in § 37a.3.

(7) IRRC suggests changes to § 37a.10 pertaining to a business entity’s lines of authority that are consistent with the IFP’s first comment. The IFP’s comment has been previously addressed and in the amendments to this final-form rulemaking.

(8) IRRC suggests that it would be beneficial to the regulatory community if the lines of authority were included in the final regulation. After review, the Department respectfully declines to make this amendment, as the lines of authority are clearly and concisely presented within the definition in section 601-A of the act (40 P.S. § 310.1), and any reiteration of those concepts here may present confusion, especially if there are any statutory changes at a later date.

(9) IRRC suggests amendments to § 37a.13 that are consistent with the IFP’s second comment relating to the use of fictitious names. The IFP’s comment has been previously addressed and in the amendments to this final-form rulemaking.

(10) IRRC’s next comment suggests that § 37a.14 regarding notice to a licensee of a formal hearing should be incorporated into a section where the notice would be served. The Department agrees and moves the content of proposed § 37a.14 to § 37a.17(c) (relating to revocation, suspension or nonrenewal of licenses). Section 37a.17 discusses disciplinary actions such as revocation, suspension or nonrenewal of licenses, instances where notice would likely need to be served on licensees prior to a formal hearing.

(11) IRRC suggests changes to § 37a.15(a)(2) (relating to changes, sale and dissolution) to specify the types of personnel for which a change affecting the designated licensee would trigger a notice being sent to the Department. In consideration of this suggestion, the Department amends paragraph (2) to clarify that only changes affecting a designated licensee require notice to the Department.

(12) IRRC suggests, with regard to § 37a.19 (relating to exclusive general agents), that the readability of the section regarding requirements for licensure and application for exclusive general agents would be “enhanced if the statutory requirements were reiterated in the rulemaking” to make clear the distinction between the classes of applicants. The distinction between an insurance producer and an “exclusive general agent” can be found in section 601-A of the act. Because all requirements are comprehensively set forth in sections 631-A—635-A of the act (40 P.S. §§ 310.31—310.35) and they are well known

to the regulated community, the Department believes no further clarification with regard to the statutory requirements for licensure of exclusive general agents is necessary.

(13) IRRC suggests, with regard to § 37a.20, that “the statutory requirements of the written agreement” between an insurance consumer and a producer “be incorporated in the final regulation because it is important consumer protection.” The Department agrees that this statutory provision is an important consumer protection, however the statute clearly sets forth that the agreement must both delineate the services to be provided and provide complete disclosure of the fee. Because all agreements could differ as to the service provided, no additional detail can be set forth by regulation and it would not serve the public interest by limiting them in regulation.

IRRC also reiterates the IFP’s third comment regarding the representation of the consumer and suggests that the Department strike language in subsection (b). The IFP’s and IRRC’s comment has been previously addressed and in the amendments to this final-form rulemaking deleting this provision in its entirety.

(14) IRRC raised a number of concerns in relation to § 37a.21. IRRC reiterates the IFP’s fourth comment regarding electronic delivery of notifications required by § 37a.21(a)(1). The IFP’s comment has been previously addressed and by the Department’s addition of subsection (f) to this final-form rulemaking allowing for electronic delivery.

IRRC also suggests that the regulatory language in subsection (a)(3) be amended to delete “in a form and format approved by the department” in conformance with IFP’s comment as well as to specify a timeframe for submitting the notice of appointment form to the Department. This language is deleted as previously discussed. Further, under subsection (c) both appointment and termination activities must be submitted to the Department within 30 days of its effective date.

Under subsection (b), IRRC suggests that the Department specify how termination notifications will be implemented in accordance with the suggestion by the IFP that one notice may be sent to the business entity listing all the producer appointment terminations. The Department cannot agree to the proposed amendment because every individual and business entity must be appointed separately, as different requirements apply based upon the length of time each person or entity is appointed. The requested amendment would conflict with section 671-A of the act that requires that each “producer” be notified, which includes both individuals and agencies. Moreover, including this provision would be contrary to provisions in sections 1.1 and 2 of the act (40 P.S. §§ 241.1 and 242), which govern the termination of agency contracts, requiring notice to each individual licensee and does not apply to agency contracts of less than 4 years.

IRRC also requested that the Department explain the rationale and need for differences in the record keeping requirements for insurers in paragraph (5) and those of licensees as proposed in § 37a.25 (relating to recordkeeping). Upon consideration of this request, the Department makes the amendment to provide for the same record keeping requirements for both §§ 37a.21(b)(5) and 37a.25.

IRRC suggests that this final-form rulemaking should include the act’s provisions relating to ongoing notification, notification to licensee, including an opportunity for the licensee to submit comments, and reporting violations under section 671.1-A(c)—(e) of the act (40 P.S.

§ 310.71a(c)—(e)), and to reiterate the requirements of section 671-A(d) of the act (40 P.S. § 310.71(d)) regarding appointment termination when an insurance producer's license is suspended or revoked or otherwise terminated. The Department respectfully believes that restating the law on this matter may not be necessary because the law is already clear. Licensees are aware that the sale of insurance is prohibited when a license is suspended or revoked by the Department. Therefore, the Department suggests that repeating this rule does not require clarification, as it may not serve the public interest.

(15) IRRC raised two issues with § 37a.24 (relating to enforcement). First, IRRC notes that the regulatory language does not include the statutory 15-day time frame allowing for corrective action. Additionally, IRRC inquires as to whether it is the Department's intent to elevate a request for documentation to the same level of violation as for those related to an investigation. This section merely clarifies the procedure that may be utilized for bringing an action against a non-responsive licensee because cooperation is essential to the Department's enforcement of the act. The Department amends this final-form rulemaking to include the 15-day corrective period as suggested by IRRC.

(16) IRRC suggested that §§ 37a.21(b)(5) and 37a.25 be amended to make the record retention period consistent or to explain the rationale and need for differences in the record keeping requirements for insurers (5 years) and those of licensees (7 years). The Department agrees that these provisions should be consistent and amends the time period set forth in § 37a.21(b)(5) from 5 years to 7 years, which is reflected in Annex A of this final-form rulemaking.

(17) IRRC has requested that the Department provide an estimate of costs for implementing this regulation, noting that Act 147-2002 imposed several fees. However, this regulation does not alter any fees, which are set forth by the act. All fees have been in effect since 2002 when Act 147-2002 was passed, with the exception of appointment fees, which were increased as authorized by the amendments to The Administrative Code of 1929 in 2003. As such, any increase in costs were realized at the time of the act's implementation. The Department does not have the ability to estimate costs or impacts to the Commonwealth, regulated community, public or local governments from 22 years ago with the data the Department maintains. This final-form rulemaking will not affect any statutorily established fees and there will be no fiscal impact to implement the clarifications and requirements.

(18) IRRC suggested that § 37a.3 (relating to purpose) be moved or deleted. The Department deletes this section from this final-form rulemaking. Additionally, in response to IRRC's comment, the Department either deletes or amends the "form and manner" language in §§ 37a.13, 37a.15, 37a.21 and 37a.23 as suggested to refer to the form available on the Department's web site, where applicable. Finally, the Department confirms that it has aligned the section numbers with the official *Pennsylvania Bulletin* version and revised the hyperlinks in Appendix A of the Regulatory Analysis Form to assure that they are working.

*Affected Parties*

This final-form rulemaking affects the Department, insurance consumers, nonresident and resident insurance producers, as well as insurers/carriers with the ability to make producer appointments. There are 336,290 individuals and 22,782 entities licensed through this Commonwealth, as resident and nonresident producers, that will

benefit from the clarity afforded by this final-form rulemaking. There are currently 1,724 insurer companies and carriers that will be affected as they have the ability to make producer appointments in compliance with this final-form rulemaking and will be affected by the clarifications of when producers are acting as a representative of the company or of the consumer.

*Fiscal Impact*

Changes to processes that were necessary to implement Act 147-2002 were made over 20 years ago when it was enacted. Increases in costs were realized at the time of the act's implementation. The Department does not have the ability to estimate costs to the Commonwealth, regulated community, public or local governments from that time with the data the Department maintains. As this final-form rulemaking does not impose new fees and only clarifies the specific legislative processes established by statute, there is no known fiscal impact to the Commonwealth, regulated community, general public or local governments.

*State government*

There will not be any fiscal impact to the Department as a result of this final-form rulemaking.

*General public*

This final-form rulemaking will have no fiscal impact upon the general public.

*Local government*

This final-form rulemaking will have no fiscal impact upon political subdivisions.

*Regulated community*

This final-form rulemaking will have no fiscal impact on the regulated community.

*Paperwork*

There are no additional legal, accounting or consulting procedures as a result of this final-form rulemaking. However, this final-form rulemaking does require licensees to establish record retention procedures and retain pertinent insurance documents for 7 years, or longer if otherwise required by law or contract.

*Effective Date*

This final-form rulemaking will become effective 60 days after publication in the *Pennsylvania Bulletin*.

*Sunset Date*

The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

*Contact Person*

Questions or comments regarding this final-form rulemaking may be addressed in writing to Kimberly Sheaffer, Insurance Department, 1341 Strawberry Square, Harrisburg, PA 17120. Questions and comments may also be e-mailed to kimsheaffe@pa.gov or faxed to (717) 772-1969.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 29, 2024, the Department submitted a copy of the proposed rulemaking, published at 54 Pa.B. 2492 (May 11, 2024), to IRRC and to the chairperson of the Banking and Insurance Committee of the Senate and to the chairperson of the Insurance Committee of the House of Representatives for comment.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), IRRC and the Senate and House committees were provided copies of comments received as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on October 23, 2024, this final-form rulemaking was deemed approved by the Senate and House committees. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on October 24, 2024, and approved the final-form rulemaking.

#### Findings

The Commissioner finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments received were considered in drafting this final-form rulemaking.

(3) The amendments to this final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 54 Pa.B. 2492. (4) This final-form rulemaking is necessary and appropriate for the administration and enforcement of the authorizing statutes.

#### Order

The Commissioner, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 31 Pa. Code Chapter 37 and 37a, are amended by deleting §§ 37.1, 37.2, 37.5, 37.6, 37.11—37.19, 37.21—37.27, 37.31—37.49, 37.61, 37.62, 37.71, 37.72 and 37.81—37.84 and adding §§ 37a.1—37a.13 and 37a.15—37a.25 to read as set forth in Annex A.

(b) The Department shall submit this final-form rulemaking to IRRC and the Senate and House committees, as required by law.

(c) The Department shall submit this final-form rulemaking to the Office of General Counsel and the Office of Attorney General for approval as to legality and form, as required by law.

(d) The Department shall certify this final-form rulemaking, as approved for legality and form, and deposit it with the Legislative Reference Bureau, as required by law.

(e) This final-form rulemaking shall take effect 60 days after publication in the *Pennsylvania Bulletin*.

MICHAEL HUMPHREYS,  
Insurance Commissioner

(Editor's Note: See 54 Pa.B. 7449 (November 9, 2024) for IRRC's approval order.)

**Fiscal Note:** Fiscal Note 11-262 remains valid for the final adoption of the subject regulations.

## Annex A

### TITLE 31. INSURANCE

#### PART I. GENERAL PROVISIONS

#### Subpart C. INSURANCE PRODUCERS

#### CHAPTER 37. [Reserved]

##### Sec.

37.1 and 37.2. [Reserved].  
37.5 and 37.6. [Reserved].  
37.11—37.19. [Reserved].  
37.21—37.27. [Reserved].  
37.31—37.49. [Reserved].  
37.61 and 37.62. [Reserved].  
37.71 and 37.72. [Reserved].  
37.81—37.84. [Reserved].

#### CHAPTER 37a. REQUIREMENTS AND STANDARDS

##### Sec.

37a.1. Definitions.  
37a.2. Interpretation of the terms "principal place of business" and "principal place of residence."  
37a.3. Schedule of fees.  
37a.4. Examination requirement.  
37a.5. Examination fees to be paid to third parties.  
37a.6. Administration of examination.  
37a.7. General application requirements.  
37a.8. Completion of application and renewal forms.  
37a.9. License renewals.  
37a.10. Business entity license.  
37a.11. License determines authority.  
37a.12. Lines of authority.  
37a.13. Name on license.  
37a.15. Changes, sale and dissolution.  
37a.16. Standards for denial of license and enforcement actions.  
37a.17. Revocation, suspension or nonrenewal of licenses.  
37a.18. Revocation, suspension or nonrenewal of licenses in nonresident insurance producer's state of domicile.  
37a.19. Exclusive general agents.  
37a.20. Representation of insurer or consumer.  
37a.21. Appointments and termination of appointments.  
37a.22. Producer accounts.  
37a.23. Merger of insurance entities.  
37a.24. Enforcement.  
37a.25. Recordkeeping.

#### § 37a.1. Definitions.

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

*Act*—The Insurance Department Act of 1921 (40 P.S. §§ 310.1—310.99a).

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Department*—The Insurance Department of the Commonwealth.

*License*—A permission, in paper or electronic form, issued by the department authorizing the named recipient to sell, solicit or negotiate contracts of insurance as an insurance producer in this Commonwealth.

#### § 37a.2. Interpretation of the terms "principal place of business" and "principal place of residence."

Section 605-A of the act (40 P.S. § 310.5) provides that an applicant with a principal place of business or residence within this Commonwealth may apply for a resident insurance producer license and, conversely, an applicant with a principal place of business or residence outside this Commonwealth may apply for a nonresident insurance producer license. However, the act fails to define the terms "principal place of business" or "principal place of residence." Therefore, for purposes of determining principal place of business and principal place of residence, the department will interpret the following terms as set forth to be applied throughout the act.

*Principal place of business*—The single location where an applicant or a licensee physically spends the majority of the applicant’s or licensee’s time conducting the business of insurance.

*Principal place of residence*—The location where an applicant or a licensee occupies a home for at least 183 days of the calendar year.

§ 37a.3. Schedule of fees.

<i>Biennial License Fees</i>	
Resident Individual Insurance Producer License	\$55
Resident Entity Insurance Producer License	\$55
Non-Resident Individual Insurance Producer License	\$110
Non-Resident Entity Insurance Producer License	\$110
Resident Individual Limited Lines Insurance Producer License	\$55
Resident Entity Limited Lines Insurance Producer License	\$55
Non-Resident Individual Limited Lines Insurance Producer License	\$110
Non-Resident Entity Limited Lines Insurance Producer License	\$110
<i>Resident and Non-Resident Individual Limited Lines Travel</i>	
Insurance Producer License	\$400
<i>Resident and Non-Resident Entity Limited Lines Travel</i>	
Insurance Producer License	\$400
Resident and Non-Resident Individual Public Adjuster License	\$200
Resident and Non-Resident Entity Public Adjuster License	\$200
Resident Individual and Entity Title Agent License	\$55
Non-Resident Individual and Entity Title Agent License	\$110
Resident and Non-Resident Individual Surplus Lines License	\$200
Resident and Non-Resident Entity Surplus Lines License	\$200
<i>Annual License Fees</i>	
<i>Resident and Non-Resident Individual Motor Vehicle Physical</i>	
Damage Appraiser License	\$55
<i>Resident and Non-Resident Individual Viatical Settlement</i>	
Broker License	\$100
Resident and Non-Resident Entity Viatical Settlement Broker License	\$100
<i>Manager or Exclusive General Agent of Domestic Insurance</i>	
Company License	\$400
<i>Miscellaneous Annual Fees</i>	
<i>Lapsed License Renewal Fee for Resident or Non-Resident</i>	
Insurance Producers	\$165
<i>Lapsed License Renewal Fee for Resident or Non-Resident Limited</i>	
Lines Insurance Producers	\$165
Lapsed License Renewal Fee for Resident or Non-Resident Title Agents	\$165
Lapsed License Renewal Fee for Resident or Non-Resident Public Adjusters	\$400
<i>Lapsed License Renewal Fee for Resident or Non-Resident Surplus Lines</i>	
Producers	\$400
<i>Adding a Line of Authority to an Existing Resident or Non-Resident</i>	
Insurance Producer License	\$25
<i>Adding a Line of Authority to an Existing Resident or Non-Resident Limited</i>	
Lines Insurance Producer	\$25
Certified Copy of a License History	\$25
Annual Appointment Fee per License	\$15

**§ 37a.4. Examination requirement.**

(a) *Examination required.* The department or a third-party approved by the department will conduct licensing examinations for “surplus lines” licensees as defined in section 1602 of The Insurance Company Law of 1921 (40 P.S. § 991.1602) and “title insurance” agents as defined in section 724 of The Insurance Company Law of 1921 (40 P.S. § 910-24) and for each of the lines of authority as defined in section 601-A of the act (40 P.S. § 310.1) other than limited lines.

(b) *Scope and content of examination.* Examinations will be designed to test the adequacy of an applicant’s knowledge of general principles of insurance and insurance laws and of particular areas of insurance practice as are pertinent to the lines of authority for which application is intended and will be specific to the laws of this Commonwealth.

**§ 37a.5. Examination fees to be paid to third parties.**

(a) The department will consider the following factors when establishing and updating the fee charged to producers and paid to third parties for conducting examinations:

- (1) The cost of developing and maintaining exams.
- (2) The cost of administering exams.
- (3) The frequency of exams offered.
- (4) The number of different types of exams offered.
- (5) The volume of exams taken.
- (6) The number of testing facilities.

(b) If the commissioner delegates the authority for administering and scoring the examinations under § 37a.6 (relating to administration of examination), fees shall be set by acceptance of the contract in accordance with the following requirements:

(1) The contract shall provide for the examinee to make payment of the examination fee directly to the testing vendor.

(2) The name and address of the testing vendor awarded the testing contract, the examinations and other services offered, if any, and the fees charged therefore will be published in the examination registration materials provided by the testing vendor.

(3) Examination fees are not refundable except according to the terms of the testing vendor.

**§ 37a.6. Administration of examination.**

(a) The commissioner may delegate to a testing vendor, by contract, the authority to administer and score examinations. The testing vendor shall ensure that the following standards are met:

(1) Examinations shall be offered at regular intervals throughout the year.

(2) Testing shall be conducted at physical locations throughout this Commonwealth and shall be available remotely.

(3) Test security shall be strictly maintained, and a set of security rules shall be developed by the testing vendor and approved by the commissioner.

(4) Bias or favoritism towards an applicant may not be permitted by the testing vendor.

(5) A comprehensive brochure describing fees, the nature of examination questions and giving sample questions shall be prepared by the vendor and be available to applicants before or at the time of registration for examination or upon request at any time. The brochure will be available in a downloadable format on the vendor’s and department’s web site.

(b) An individual seeking a license shall register for examination directly with the testing vendor.

**§ 37a.7. General application requirements.**

(a) *Individual application.* An individual applicant for an insurance producer license shall electronically remit to the department through its approved vendor or authorized service a completed application, including the following:

(1) An indication of the lines of authority for which the applicant seeks to be licensed.

(2) The required license fee in accordance with § 37a.3 (relating to schedule of fees).

(3) The applicant’s fingerprints to be submitted for the department to obtain national criminal history record information, except where reciprocal licensing is permitted under section 610-A of the act (40 P.S. § 310.10).

(4) The fee associated with obtaining the National criminal history record information, if applicable.

(5) Documentation verifying that the applicant passed the insurance producer licensing examination on the lines of authority for which the applicant desires a license or is exempt under section 604-A(d) of the act (40 P.S. § 310.4(d)) from the insurance producer licensing examination.

(b) *Prerequisites.* The individual applicant shall follow the procedures in section 604-A of the act to obtain the license prerequisites prior to applying for licensure.

(c) *Examination results.*

(1) Certification of the applicant’s score report for individual applicants who have passed a licensing examination will be directly reported by the testing vendor to the department.

(2) Test scores and results are valid for 1 year from the passing date of the examination. Applications received with older test results will be rejected.

(d) *Business entity application.* A business entity applicant, through its designated licensee, may apply to the department for an insurance producer license for the same lines of authority held by the entity’s designated licensees, by electronically remitting to the department’s vendor or authorized representative a completed application indicating the lines of authority for which the business entity desires to be licensed, proof of the licenses held by the designated licensees, and the required license fee set forth in § 37a.3.

(e) *Additional requirements for business entities.* An insurance producer license will not be granted to a business entity unless the business entity is eligible under section 606-A(b) of the act (40 P.S. § 310.6(b)) and individual licenses are obtained for each qualifying designated licensee or exclusive general agent in accordance with section 631-A of the act (40 P.S. § 310.31), pertaining to licensing of managers and exclusive general agents.

**§ 37a.8. Completion of application and renewal forms.**

(a) An applicant for an insurance producer license shall complete application and renewal forms truthfully and accurately, using the appropriate application form which may be submitted electronically through the department’s approved vendor or authorized service, or in paper form if the applicant is unable to apply online and submits a

cover letter explaining the circumstances of the applicant's inability to apply electronically.

(b) Applications and renewal forms submitted to the department will be examined and, if not complete, the department will request additional information from the applicant. The applicant is required to provide the requested information to the department within 30 days of the department's request. If the delay in providing the requested information is due to the department's approved vendor or authorized service, upon proof of remittance to the vendor the department will not close the application.

(c) If the applicant fails to provide the requested information under subsection (b), the applicant will be notified that the department may close the application if the information is not provided within 45 days of the department's request for additional information. The closure of an application will be treated by the department as withdrawn by the applicant and may require the applicant to retake the required test or tests if the test scores have expired or to resubmit their fingerprints. A new license application and fee may be required upon the department's request. Application fees are nonrefundable under section 605-A(c) of the act (40 P.S. § 310.5(c)).

(d) An individual applicant is responsible for the content and accuracy of the applicant's application and renewal forms.

(e) The designated licensee or licensees of a business entity shall be responsible for completing the application of a business entity accurately and completely.

**§ 37a.9. License renewals.**

(a) *Renewal generally.* A licensee seeking renewal of an insurance producer license shall electronically remit to the department through its approved vendor or authorized representative, a renewal form and the required fee set forth in § 37a.3 (relating to schedule of fees). The department's vendor or authorized representative shall verify that the licensee has completed 24 credit hours of approved continuing education, inclusive of any specific subject matter courses required for a specific line of authority, for each license period, unless otherwise exempted from continuing education requirements under section 608-A(c) of the act (40 P.S. § 310.8(c)).

(b) *Renewal licensing period.*

(1) An individual insurance producer license shall be renewed biennially based on the last day of the insurance producer's month of birth. The initial license period may vary to coincide with the expiration cycle of the birth month.

(2) A business entity license will expire biennially based on the date of license issuance.

(c) *Lapse.* A licensee that allows its insurance producer license to lapse by failing to properly renew the license by its expiration date shall conform to one of the following:

(1) If all statutory requirements for renewal are received by the department within 60 days of the license expiration date, the licensee shall be eligible for retroactive reinstatement of the license, with the license effective on the expiration date.

(2) If all statutory requirements for renewal are received by the department more than 60 days, but less than 1 year, from the license expiration date, the licensee shall be eligible for prospective reinstatement of the license, with the license effective on the date of reinstatement.

(3) If the expiration date of the license is longer than 1 year, the licensee shall be required to reapply for a new insurance producer license in accordance with section 605-A of the act (40 P.S. § 310.5).

(d) *Waiver.* When extenuating circumstances exist that prevent a licensee from complying timely with the license renewal requirements, the licensee may request a waiver in accordance with section 608-A(e) of the act.

**§ 37a.10. Business entity license.**

(a) A business entity shall follow the procedures in section 605-A(b) of the act (40 P.S. § 310.5(b)), regarding resident and nonresident business entity license applications.

(b) A license shall be required for each business entity, other than a sole proprietorship, which has a separate Federal tax identification number and engages in the business of insurance in this Commonwealth.

(c) A license for a business entity will not be issued unless all members, partners, officers or directors or owners, with more than 10% interest or voting interest, are included on the application and all lines of authority of the business entity are also reflected on the combined licenses of the designated licensee or licensees thereof.

(d) The designated licensee or licensees of a business entity must hold individually or in combination all the lines of authority held by the business entity. Partners or officers may not engage, either individually or on behalf of the business entity, in an act of an insurance producer requiring a line of authority that they do not individually hold.

(e) If a designated licensee's insurance producer license is terminated, the business entity shall designate a licensed replacement within 15 days for each line of authority affected. If all affected lines of authority are terminated, failure to do so may result in the termination of the business entity's license.

**§ 37a.11. License determines authority.**

An insurance producer may conduct business only for the line or lines of authority stated on the license.

**§ 37a.12. Lines of authority.**

(a) A business entity may only sell, solicit or negotiate a line of authority that is held by the business entity.

(b) The authority to sell the lines of authority as defined in section 601-A of the act (40 P.S. § 310.1) may be granted by the department and reflected on the license.

(c) If after meeting the appropriate requirements, an insurance producer intending to add another line or lines of authority to an existing license shall submit an application to the department and request that the new line or lines of authority be added to the insurance producer's existing license with the appropriate amended fee set forth in section 612-A of The Administrative Code of 1929 (71 P.S. § 240.12A).

(d) An insurance producer who holds a license in good standing for a line of authority is not required to complete the pre-examination education requirement described under section 604-A(b) of the act (40 P.S. § 310.4(b)), before taking the examination for an additional line.

**§ 37a.13. Name on license.**

(a) An insurance producer shall notify the department within 30 days of a legal change of name using the form available on the department's web site.



(b) A licensee that seeks to use a fictitious name shall do all of the following:

(1) Register the fictitious name with the Department of State.

(2) Notify the department using the form available on the department's web site.

(c) For purposes of this section, a fictitious name does not include a name that is a commonly known nickname or derivative of the name appearing on an individual producer's license.

**§ 37a.15. Changes, sale and dissolution.**

(a) A business entity shall notify the department using the form available on the department's web site within 30 business days, so that the correct information is on file with the department, when any of the following occur:

(1) A change in the name of a business entity.

(2) A change to a designated licensee.

(b) Upon a sale or dissolution of a business entity, the business entity shall notify the department if there is a change in the designated licensee, contact information or Employer Identification Number (EIN). If the EIN changes, a new application is required.

**§ 37a.16. Standards for denial of license and enforcement actions.**

(a) The commissioner may deny an application for an insurance producer license upon finding any of the following:

(1) The applicant has not met the license prerequisites under section 604-A of the act (40 P.S. § 310.4).

(2) The application does not meet the requirements under section 605-A of the act (40 P.S. § 310.5).

(3) The applicant has committed an act prohibited under section 611-A of the act (40 P.S. § 310.11) including considerations of whether the applicant is worthy of licensure as set forth in the examples in subsection (b).

(b) For purposes of determining whether an applicant or licensee is worthy of licensure under section 611-A(20) of the act, the commissioner may consider any of the following actions:

(1) Dishonest or fraudulent conduct.

(2) The making of knowingly false statements.

(3) Conduct demonstrating that the applicant or licensee does not possess the competence necessary to accurately and successfully ensure that an insurance transaction is properly executed.

(4) Whether the applicant or licensee has abused a relationship of trust in an insurance, financial or other context.

(5) Whether the applicant or licensee has engaged in violent conduct that could potentially jeopardize the safety of a consumer or co-worker.

(6) Criminal convictions other than those enumerated by section 611-A(14) or (15) of the act where the crime involves any of the actions in paragraphs (1)–(5) or the facts and circumstances surrounding the underlying criminal activity indicate a lack of general fitness, honesty, trustworthiness, competence or reliability.

(7) Administrative actions taken by a self-regulating non-governmental organization such as the Financial Industry Regulatory Authority or other licensing authority, board or governmental agency.

(8) Failure to comply with the requirements of sections 1601–1626 of The Insurance Company Law of 1921 (40 P.S. §§ 991.1601–991.1626), pertaining to surplus lines.

(9) Whether the applicant or licensee has violated probation or parole.

(10) Whether the applicant or licensee has not yet successfully completed their sentence or the entire term of their probation or parole for an underlying conviction that can be considered subject to paragraph (6) or section 611-A(14) or (15) of the act.

(c) The examples enumerated in subsection (b) are not exhaustive of the types of conduct relevant to a determination of whether an applicant is worthy of licensure and are not per se determinative of worthiness. The department will continue to evaluate worthiness on a case-by-case basis and will consider the facts and circumstances of each situation.

**§ 37a.17. Revocation, suspension or nonrenewal of licenses.**

(a) The department may revoke, suspend or refuse to renew a license upon finding that an insurance producer has engaged in conduct which would disqualify the insurance producer from initial issuance of a license. This conduct includes the indicated bases for initial denial of a license provided in § 37a.16 (relating to standards for denial of license and enforcement actions).

(b) Hearings related to the revocation, suspension or nonrenewal of a license will be held in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(c) Notice of a formal hearing under 1 Pa. Code § 35.14 (relating to orders to show cause) sent to the address on file of the insurance producer shall constitute formal legal notice to the insurance producer.

**§ 37a.18. Revocation, suspension or nonrenewal of licenses in nonresident insurance producer's state of domicile.**

A nonresident insurance producer whose Pennsylvania license was issued by the department based on a valid certificate or license from the producer's home state may be subject to suspension, revocation or nonrenewal in this Commonwealth if the producer's license is suspended, revoked or nonrenewed in the producer's home state.

**§ 37a.19. Exclusive general agents.**

(a) A license does not permit an insurance producer to act as an exclusive general agent. To complete the licensure process to act as an exclusive general agent, an insurance producer shall secure a written appointment from each sponsoring insurer. An insurer shall make appointments of exclusive general agents in writing to the insurance producer.

(b) An insurer may terminate an exclusive general agent's appointment in accordance with the following requirements:

(1) A termination shall be in writing and sent to the exclusive general agent prior to notification of termination to the department. If an exclusive general agent requests termination, the insurer shall process the termination within 30 days.

(2) If an insurer has entered into a contract with the exclusive general agent, the termination date of the appointment shall be the same as the termination date of the contract.

(3) The termination notice to the exclusive general agent shall contain at least the following:

(i) The name of the insurer for which the agent is being terminated.

(ii) The effective date of termination.

(iii) The lines of authority terminated.

(iv) The name and address of terminated appointee, including fictitious names used by appointee.

(v) The national producer number or Pennsylvania license number of the terminated appointee.

(vi) The names of the designated licensee or licensees if the terminated appointee is a business entity.

**§ 37a.20. Representation of insurer or consumer.**

(a) When an insurance producer acting as the representative of the consumer is authorized by the client to secure insurance, the producer shall be considered the legal agent of the client.

(b) For purposes of section 671-A of the act (40 P.S. § 310.71) and where a determination is otherwise required under the act, whether an insurance producer is acting on behalf of or representing an insurer is based upon the facts and circumstances of the particular transaction. Factors to be considered include all of the following:

(1) Whether the insurance producer receives a commission from the insurer.

(2) The nature and existence of any agreement between the insurance producer and the insurer including any reference to:

(i) An appointment of the producer.

(ii) The provision of binding authority.

(iii) Selling, soliciting or conducting insurance business for or on behalf of the insurer.

(iv) Representation of the insurer.

(3) Whether the insurance producer has researched or obtained quotes for the policy from multiple insurers and whether the insurance producer is appointed with each of these carriers.

(4) Whether the insurance producer is given authority to do more than the mere authorization to submit proposals or applications for consideration by the insurer.

(c) Except as provided by section 674-A of the act (40 P.S. § 310.74(a)) or otherwise provided by law, an insurance producer may not receive both a commission from an insurer and a fee from a consumer in a particular transaction.

**§ 37a.21. Appointments and termination of appointments.**

(a) To act as a representative of an insurer, an insurance producer shall secure a written appointment from each insurer it represents. The following apply:

(1) An insurer shall make appointments in writing to the insurance producer.

(2) If an insurer enters into a contract with the insurance producer to act as a representative of the insurer, the effective date of the appointment shall be the same as the effective date of the contract.

(3) An insurer's notice of appointment form must contain the following:

(i) The effective date of the appointment.

(ii) The name and address of the appointee.

(iii) The appointee's license number.

(iv) The appointee's national producer number.

(v) The insurer's NAIC number.

(b) An insurer may terminate the appointment of an insurance producer to act as the representative of the insurer in accordance with all of the following requirements:

(1) Terminations shall be in writing and sent to the insurance producer prior to or contemporaneously with notification of termination to the department. If an insurance producer requests termination, the insurance entity shall process these terminations within 30 days.

(2) If an insurer has entered into a contract with the insurance producer to act as its representative, the termination date of the appointment shall be the same as the termination date of the contract.

(3) The termination notice to the insurance producer must contain at least the following:

(i) The name of the insurer for which the insurance producer is being terminated.

(ii) The effective date of termination.

(iii) The name and address of the terminated appointee.

(iv) The national producer number or Pennsylvania license number of the terminated appointee.

(v) The names of the designated licensee or licensees if the terminated appointee is a business entity.

(4) Termination initiated by an appointee shall be acted upon by an insurer within 30 days and confirmed by an insurer in its termination form and reported to the department as required under this subsection.

(5) An insurer shall maintain termination records for 7 years after termination is effective.

(6) When a termination of an appointee is for cause, the insurer shall document its reasons for termination and send the paperwork electronically to the attention of the department's Chief of Enforcement.

(7) If an appointment has been terminated on the records of the department, it may not be revived. The insurer shall issue a new appointment with a new effective date in the standard appointment format.

(8) An insurer shall file a termination of an appointment when the appointee ceases to act as the representative of the insurer.

(c) Appointment and termination activity by an insurer shall be submitted to the department electronically through an approved vendor or authorized service within 30 days of the appointment or termination effective date. On a case-by-case basis, the department will continue to accept paper monthly appointment activity reports for insurance companies who have 50 or fewer transactions per calendar year. The report shall be in a format approved by the department. The report shall be filed within 30 days of the end of the period being reported.

(d) Appointment and termination records required under this section may be maintained in the form of electronic paperless filing systems in accordance with guidelines for record retention developed and distributed by the department.

(e) Nothing in this section may affect the insurance producer's rights under sections 1—6 of the act of September 22, 1978 (P.L. 763, No. 143) (40 P.S. §§ 241—246) regarding the termination of agency contracts.

(f) For purposes of this section, written notifications include written notifications sent electronically if in compliance with the Uniform Electronic Transactions Act (73 P.S. §§ 2260.101—2260.503).

**§ 37a.22. Producer accounts.**

(a) Insurance producers who have the express written consent of their insurance entities to mingle all funds received or collected as an insurance producer with their own funds in accordance with section 696-A of the act (40 P.S. § 310.96), regarding fiduciary capacity of an insurance producer, may do so if the following exist:

(1) Moneys held in a fiduciary capacity are reasonably ascertainable from the books of accounts and records of the insurance producers.

(2) Amounts due entities are equal to or less than the combined accounts receivable and current bank balances.

(b) Insurance producers who do not have the express consent of their insurance entities to mingle all funds received or collected as an insurance producer with their personal funds shall hold the funds separate from other funds in accordance with the following:

(1) Insurance producers who do not make prompt remittance to their insurance entities may not deposit funds received or collected as an insurance producer in office operating accounts but shall keep the moneys in a separate bank account from which disbursement may not be made other than for the payment of premiums to the insurance entities, the return of premiums to the insured, the transfer of commissions or the withdrawal of voluntary deposits.

(2) Voluntary deposits in the account for funds received or collected as an insurance producer in excess of premiums collected and unpaid to insurance entities may be made for the purpose of maintaining a minimum balance, to guarantee the adequacy of the account or for the purpose of the payment of premiums to the insurance entities in advance of their collection. These deposits may not be withdrawn except to the extent that the remaining balance is equal to the total of net premiums collected and unpaid to insurance entities.

(3) The deposit of all funds received or collected as an insurance producer in a separate bank account may not be construed as a mingling by the producer of the net premium and of the commission portion of the premium. The commission portion of the premiums may be withdrawn from the separate bank account at the discretion of the insurance producer.

(4) The maintenance in a separate bank account of at least the net balance of premiums collected and unpaid to the insurance entities by insurance producers shall be construed as compliant with this section and section 696-A of the act, if the funds so held are readily ascertainable from the books of account and records of producers.

(5) Insurance producers who make prompt remittance of collections to their insurance entities need not maintain separate bank accounts for these collections. To constitute prompt remittance, payment to entities shall be remitted not later than the close of the fifth business day following receipt of the funds.

(6) When both an operating account and an account for all funds received or collected are maintained by insurance producers under this section for purposes of segregating premiums collected, the funds account balance shall include moneys sufficient to pay premiums collected and any amount delinquent or in dispute with the insurer represented. Upon reconciliation of delinquent or disputed accounts, excess moneys remaining in the funds account may be withdrawn as if the excess moneys had been voluntary deposits.

(7) Insurance producers may deposit funds received or collected as an insurance producer in an interest-bearing account when not required to make prompt remittance to the insurer of premium moneys, if all of the following are met:

(i) The moneys are not placed in an account upon which a penalty may be levied against the principal for early withdrawal.

(ii) The moneys are placed in an account insured by the United States Government or instruments secured by the United States Government.

**§ 37a.23. Merger of insurance entities.**

(a) When insurers merge, consolidate or reincorporate, the insurers have the option to transfer all or none of their insurance producer appointments to the new surviving insurer. The transfer takes place immediately after the merger transaction is effective. Additional lines of authority will not be granted to these insurance producers by means of the transaction.

(b) If the surviving insurer decides to transfer all insurance producer appointments, it shall notify the department in writing within 30 days of the transfer.

**§ 37a.24. Enforcement.**

(a) An insurance producer must, within 30 days of receiving a written inquiry by the department or a request for documentation related to an application or renewal of a license or an investigation, provide a written response or produce the requested documents.

(b) An insurance producer shall cooperate with the department in any investigation related to a violation of the act or this chapter. Cooperation includes, but is not limited to, being interviewed by the department, providing a written statement to the department, providing pertinent documentation, testifying at a proceeding, and completing an authorization for release of information, as necessary, in a form specified by the department.

(c) If a licensee fails to respond to an inquiry as set forth in subsection (a) and fails to correct the violation within 15 days, the department may file an order to show cause against the licensee on that basis seeking the penalties under section 612-A(b) of the act (40 P.S. § 310.12(b)) of a fine of no more than \$100 per day in addition to the denial, suspension or revocation of a license.

**§ 37a.25. Recordkeeping.**

(a) A licensee shall establish, maintain and follow record retention procedures to retain all documents pertaining to the licensee's transaction of the business of insurance for 7 years from the final execution or creation of the record, whichever is longer.

(b) This section establishes only the minimum retention period and shall not affect any record retention requirements that may be in excess of this time period, including requirements imposed by any of the following:

(i) A contractual agreement.

(ii) The Internal Revenue Service.

(iii) An applicable statute of limitations.

(iv) A law, regulation or policy of the department or any other state or Federal regulatory agency.

(c) Nothing in this section prohibits a licensee from retaining a record in an electronic format, provided that all records shall be retained in a manner that preserves

their authenticity and will allow for their prompt production upon request by the department or any other state or Federal regulatory agency.

(d) For purposes of this section, an employee, agent, representative or designee of an insurance producer that is a business entity is exempt from the requirement to individually retain records to the extent that these records are already maintained by the licensed business entity.

[Pa.B. Doc. No. 24-1773. Filed for public inspection December 13, 2024, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF NURSING

#### [ 49 PA. CODE CH. 21 ]

#### Licensure by Endorsement and Reactivation

The State Board of Nursing (Board) amends §§ 21.30a and 21.156a (relating to continued competency) regarding reactivation and adds Subchapter K (relating to licensure by endorsement under 63 Pa.C.S. § 3111) to read as set forth in Annex A.

#### *Effective Date*

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

#### *Statutory Authority*

The amendments relating to reactivation are authorized under section 2.1(k) of The Professional Nursing Law (RN Law) (63 P.S. § 212.1(k)) and section 17.6 of the Practical Nurse Law (PN Law) (63 P.S. § 667.6) which provide the Board with general authority to establish standards for the practice of professional and practical nursing, respectively, and the practice of dietetics-nutrition.

The provisions of 63 Pa.C.S. § 3111 (relating to licensure by endorsement) require 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: holds 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; has 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 such conduct is not an impediment to granting the license, certificate, registration or permit; is 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 such 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.

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) (Act 48) (repealed) 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) (Act 41).

#### *Background and Need for the Amendments*

This final-form rulemaking is needed to effectuate 63 Pa.C.S. § 3111, which requires the Board to issue a license, certificate, registration or permit to an applicant who meets the requirements for licensure by endorsement. Under 63 Pa.C.S. § 3111(a)(1), the Board must determine whether the other jurisdiction’s standards for licensure or certification 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 final-form 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. In § 21.1104 (relating to licensure by endorsement fee), this final-form rulemaking sets forth the applicable fee for licensure by endorsement applications under 63 Pa.C.S. § 3111.

Licensure by endorsement under 63 Pa.C.S. § 3111 is an alternate pathway for licensure and certification than that delineated under The RN Law and the PL Law. Under these provisions, applicants for registered nurse (RN), licensed practical nurse (LPN) or licensed dietitian-nutritionist licenses must graduate from a Pennsylvania-equivalent program in another jurisdiction and pass a Pennsylvania-equivalent licensure examination. Similarly, applicants for certification as a nurse practitioner or as a clinical nurse specialist must hold an RN license, graduate from a Pennsylvania-equivalent program in another jurisdiction and possess current National certification, as applicable. Under the final regulations and 63 Pa.C.S. § 3111, the Board reviews the other jurisdiction’s law and determines whether it is substantially equivalent to current licensure standards for the profession.

Because the Board is including additional methods in § 21.1102(a)(2) (relating to licensure by endorsement under 63 Pa.C.S. § 3111) to demonstrate competency by means of practice in another jurisdiction under 63 Pa.C.S. § 3111, the Board believes that it is also appropriate to clarify and make consistent similar provisions in §§ 21.30a(a)(3) and 21.156a(a)(3), which provide the competency provisions for RNs and LPNs seeking reactivation who practiced in other states.

Notice of the proposed rulemaking was published at 52 Pa.B. 7503 (December 10, 2022) for thirty days of public comment. The Board did not receive any comments from the public. As part of its review under the Regulatory Review Act, the Independent Regulatory Review Commission (IRRC) submitted comments on February 8, 2023. The Board received no comments from the Consumer Protection and Licensure Committee of the Senate (SCP/PLC) or the Professional Licensure Committee of the House of Representatives (HPLC). The following represents a summary of the comments received and the Board’s response.

*Summary of IRRC Comments to the Proposed Rulemaking and the Response of the Board*

IRRC noted that the Board was required to promulgate these regulations within 18 months of the effective date of the amendment and urged the Board to promulgate the final-form regulations as quickly as possible.

Twenty-seven boards and commissions under the Bureau of Professional and Occupational Affairs (Bureau) are subject to 63 Pa.C.S. § 3111 and required to promulgate regulations. When Act 41 was enacted, the boards and commissions implemented the law and created procedures for processing applications. The Bureau coordinated the boards and commissions in this effort and continues to do so to ensure that the regulations are consistent and continually moving forward within the regulatory process. The Board prioritized the drafting of this final-form rulemaking, but also continued to work on other important regulations and Board work. The Board published the proposed rulemaking at 52 Pa.B. 7503, during sine die. On March 22, 2023, the Board sent a courtesy copy of the regulations to the SCP/PLC and the HPLC after the committees were designated and published at 53 Pa.B. 1503 and 1504 (March 18, 2023). The Board discussed the comments at its June 5, 2023, Board meeting and adopted the regulation package in final form.

IRRC commented on § 21.1102(a)(1)(i), which requires an applicant to submit a copy of the current law and regulations, including the scope of practice, in the jurisdiction where the applicant holds an active license. IRRC expressed a concern that this is not a specific statutory requirement and suggested it should be the Board's responsibility to research the laws and regulations of the jurisdiction from which the applicant is applying. For the following reasons the Board disagrees and has not amended § 21.1102(a)(1)(i) in this final-form rulemaking: 1) since 2019, the Board has received only 14 applications and the applicants have been able to provide the Board with the necessary laws and regulations quickly and easily; 2) it is the applicant's burden to prove to the Board that qualifications for licensure are met; and 3) putting this burden on the Board and its legal counsel unnecessarily puts a financial burden on the Board and to its licensees that finance the Board through biennial renewal fees, or if this cost is applied to application fees, then the cost to apply for a license would have to be increased. Applicants generally have access to the laws and regulations of the jurisdiction where they are licensed. It is of particular concern when an applicant is licensed in another country. This type of research is overly burdensome and could be costly to the Board. While the Board will take steps to verify the laws and regulations of another jurisdiction, having the applicant provide that initial information is the most expedient and fiscally prudent approach.

IRRC asked the Board to explain what standard determines whether another jurisdiction is substantially equivalent and recommended that the Board publish an annual determination of those jurisdictions which have laws and regulations substantially equivalent to this Commonwealth. Boards routinely consider whether standards of other jurisdictions are equivalent or substantially equivalent, or both, to the standards of this Commonwealth. When looking at the licensure standards of other jurisdictions, the Board is evaluating the requirements or qualifications for initial licensure in that jurisdiction. In doing so, the Board conducts an individual assessment of each application, including the different path or licensure track taken by an applicant, at the time the application is submitted. This ensures that the Board

is using the most up-to-date laws and regulations when making decisions on these applications, which will in turn ensure that all nurses that are licensed through this regulation are competent and safe to practice nursing. Because laws and regulations routinely change, publishing an annual list of substantially equivalent jurisdictions would likely be out of date soon after it is published. In addition, this list would place an enormous burden on the Board to continuously review each states' laws and regulations to assure that there are no changes and then revise the published list accordingly. Given the anticipated low volume of expected applications for licensure by endorsement under 63 Pa.C.S. § 3111, coupled with the costs of engaging in this action, the Board declines to add this recommendation.

Regarding IRRC's concern that allowing applicants to utilize experience in more than one jurisdiction may place an added burden because an applicant would have to demonstrate substantial equivalency in multiple jurisdictions, applicants would not be required to utilize experience in multiple jurisdictions. Instead, applicants would be provided the opportunity to do so if they so desire. The Board decided to allow for experience in multiple jurisdictions because limiting relevant experience to one jurisdiction would be an unnecessary and arbitrary barrier to licensure. The burden of proof is on an applicant to show eligibility for licensure; providing licensure standards from the jurisdiction where the applicant obtained the experience is not an overly burdensome requirement for an applicant.

IRRC questioned the need for § 21.1102(a)(2)(i) because the hourly requirement of this section would always be satisfied under subsection (a)(2)(ii). The Board concurs with IRRC's observation and consolidates subparagraphs (i) and (ii) in this final-form rulemaking. The Board retains the maximum number of hours of experience that can be credited for a year (1,800 hours) in the amended provision.

IRRC asked the Board to clarify subsection (a)(4), which states that an applicant must not have any discipline by the jurisdiction that issued the license, certificate, registration or permit. IRRC suggested that the Board clarify this provision by specifying the types of discipline (that is, formal discipline or complaint) and the time frame when the discipline occurred. Regarding the suggestion to distinguish between formal discipline and a complaint, the Board does not think it is necessary to make this type of distinction. A complaint is not considered to be formal or informal discipline. Additionally, the Board does not believe it is appropriate to predetermine the type of discipline or the time frame discipline occurred. The Board, instead, believes it is appropriate to evaluate discipline on a case-by-case basis. As indicated in subsection (c), the Board is authorized to determine that discipline is not an impediment to licensure under 63 Pa.C.S. § 3111. In determining whether the discipline is an impediment to licensure, it is dutybound to apply the caselaw and other applicable laws. See, *Secretary of Revenue v. John's Vending Corp.*, 453 Pa. 488, 309 A.2d 358 (1973); *Bethea-Tumani v. Bureau of Professional and Occupational Affairs, State Board of Nursing*, 993 A.2d 921 (Pa. Cmwlth. 2010). As a part of that analysis, the Board may consider the facts and circumstances surrounding the prohibited act or disciplinary action, 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.

IRRC also commented on § 21.1103(b)(1) (relating to provisional endorsement license) noting that this provision would allow the Board to issue a provisional license for less than a year and asked why the Board would need to do so. Section 3111(b)(2) of 63 Pa.C.S. requires the Board to establish an expiration date for provisional licenses in its regulations. The Board, along with most other boards and commissions under the Bureau has determined that expiration of 1 year is generally an appropriate time frame for most applicants. However, in the interest of public safety, the Board determines that providing some discretion to the Board is necessary for instances where the remaining licensure requirements do not require a full year to complete. It is in the public interest to ensure that a licensee becomes qualified or competent as expeditiously as possible. While the Board certainly will provide a full year when the facts warrant it, the Board wants its licensees to be qualified and competent as soon as practicable. An example would be where an applicant from another jurisdiction only needs to complete ten more continuing education credits. To allow 12 months to establish competency when competency could be accomplished in a shorter term would not be in the best interest of public safety. This is because the Board believes it is best for applicants to meet the competency requirements within a reasonable time period that is tied to the length of time necessary to meet the specific competency requirement.

IRRC asked the Board to explain its rationale for limiting provisional licenses in § 21.1103(d) whereby the Board will not issue subsequent provisional licenses after the provisional license expires. A provisional license is an unrestricted license that is issued to an applicant to provide a short period of time to an applicant to practice while simultaneously working to meet the Board's licensure by endorsement requirements. While the Board is reluctant to issue an unrestricted license to an applicant who has not met the licensure standards or who has not proven competency, the General Assembly gives boards the discretion to do so as long as there is an expiration to that provisional license. The provisional license is meant to be a temporary license, on a short-term basis, to allow an applicant to begin practicing while completing remaining licensing requirements. The Board's regulations allow requests for an extension up to 1 additional year; the Board believes this time frame is more than sufficient. The Board is concerned that allowing for multiple provisional licenses could be used as a mechanism to circumvent licensure standards. An applicant may certainly apply for a specific type of nurse license after a provisional license expires; however, if the applicant does not meet the licensure standards after having a provisional license and having the option to apply for an extension, the applicant would not be eligible to apply for or receive an additional provisional license. Ultimately, the Board determines that protection of the public warrants the limitation of one provisional license per applicant to ensure the citizens of this Commonwealth are receiving services from qualified and competent licensees.

IRRC also asked the Board to address the cost of the professional translation service needed to translate applicable laws and regulations of other jurisdictions into English and the Criminal History Record Check (CHRC) fee in the Regulatory Analysis Form (RAF). This final-form rulemaking is amended to include a specific esti-

mate of costs to the regulated community for translation of an applicable law, regulation or rule. The Pennsylvania CHRC fee of \$22 and Federal Bureau of Investigation fee of \$18 have also been included in the RAF. The Board is unable to determine with certainty the CHRC fees that would be assessed by other states, territories or countries. The Board would note that the CHRC fee is not specific to licensure by endorsement applicants. Applicants applying for a license under this Board, whether it be by examination or endorsement, would incur this fee. Regarding translation costs, the Board anticipates that the translation costs will be approximately \$25 per page and range between two and five pages in length.

#### *Miscellaneous Clarifications*

Twenty-seven Boards under the Bureau are drafting and publishing licensure by endorsement regulations. To keep language in the regulations as consistent as possible, the Board is making minor amendments based upon comments received during the review process of other regulations. The following amendments are stylistic and do not have a substantive impact on the regulations. The Board replaces "complete" with "have completed" in § 21.1102(a)(8). The Board also adds § 21.1103(c)(3) to clarify that expiration of a provisional license is a terminating event.

#### *Fiscal Impact and Paperwork Requirements*

This final-form 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 and applications for reactivation will be recouped through fees paid by applicants. Applicants for licensure by endorsement under 63 Pa.C.S. § 3111 will be impacted by the \$120 application fee in § 21.1104 as well as the CHRC fee. Applicants must complete child abuse recognition and reporting training, as required by 23 Pa.C.S. § 6383(b)(3)(i) (relating to education and training). 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. If applicants are unable to establish English proficiency by demonstrating that their education, training or examination was in English and they must take an approved English language proficiency examination, the cost to the applicant is approximately \$200. There are no other costs associated with this regulation related to competency.

In addition to the costs being recouped, the Board does not anticipate that many applicants will avail themselves of this pathway. Under The RN Law and the PN Law, out-of-State RNs and LPNs are permitted to practice in this Commonwealth on a temporary practice permit for 1 year and that time frame may be extended for another without having to demonstrate competence. Additionally, although the National Licensure Compact (NLC) has yet to be implemented in this Commonwealth, upon implementation for out-of-State nurses who hold active, unencumbered, multistate licenses issued by members of the NLC, they may practice in any member state under their multistate licenses without filing an endorsement application, meeting eligibility requirements, including competency or receiving provisional licenses.

There are no additional costs or paperwork requirements associated with the reactivation amendment.

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 November 28, 2022, the Board submitted a copy of the notice of proposed rulemaking, published at 52 Pa.B. 7503 and a copy of an RAF to IRRC and the chairperson of the SCP/PLC and the chairperson of the HPLC for review and comment. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act, the Board shall submit to IRRC, the SCP/PLC and the HPLC copies of comments received as well as other documents when requested. In preparing the final-form rulemaking, the Board considered comments received from IRRC. No public comments were received. The Board received no comments from the SCP/PLC and the HPLC.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on August 26, 2024, the Board delivered the final-form rulemaking to IRRC, the SCP/PLC and the HPLC. Under section 5.1(j.2) of the Regulation Review Act (71 P.S. § 745.5a(j.2)), on October 23, 2024, the final-form rulemaking was deemed approved by the SCP/PLC and the HPLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met October 24, 2024 and approved the final-form rulemaking.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law, and all comments received were considered in drafting this final-form rulemaking.

(3) This final-form rulemaking does not include any amendments that would enlarge the scope of proposed rulemaking published at 52 Pa.B. 7503.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of 63 Pa.C.S. § 3111 and The RN Law and the PN Law.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending §§ 21.30a and 21.156a and adding §§ 21.1101—21.1104 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

(e) The final-form rulemaking shall take effect upon publication in the Pennsylvania Bulletin.

LINDA M. KMETZ, PhD, RN,  
Chairperson

(Editor's Note: See 54 Pa.B. 7449 (November 9, 2024) for IRRC's approval order.)

Fiscal Note: Fiscal Note 16A-5143 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

LICENSEES

§ 21.30a. Continued competency.

(a) A registered nurse whose license has lapsed for 5 years or longer or has been placed on inactive status for 5 years or longer, as permitted in section 11(b) of the act (63 P.S. § 221(b)), may reactivate the license by doing one of the following:

\* \* \* \* \*

(3) Providing evidence to the Board that the applicant has a current license and has practiced as a registered nurse in another jurisdiction for at least 3,600 hours within the last 5 years.

\* \* \* \* \*

Subchapter B. PRACTICAL NURSES

LICENSURE

§ 21.156a. Continued competency.

(a) A licensed practical nurse whose license has lapsed for 5 years or longer or has been placed on inactive status for 5 years or longer, as permitted in section 13.1(b) of the act (63 P.S. § 663.1(b)), may reactivate the license by doing one of the following:

\* \* \* \* \*

(3) Providing evidence to the Board that the applicant has a current license and has practiced as a practical nurse in another jurisdiction for at least 3,600 hours within the last 5 years.

\* \* \* \* \*

Subchapter K. LICENSURE BY ENDORSEMENT UNDER 63 Pa.C.S. § 3111

Sec.	Definitions.
21.1101.	Licensure by endorsement under 63 Pa.C.S. § 3111.
21.1103.	Provisional endorsement license.
21.1104.	Licensure by endorsement fee.

§ 21.1101. Definitions.

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

Jurisdiction—A state, territory or country.

§ 21.1102. 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, certificate, registration or permit in good standing to practice the profession in another jurisdiction whose standards are substantially equivalent to or exceed those established under section 6(a) and (c) of The Professional Nursing Law (63 P.S. § 216(a) and (c)) and § 21.21 (relating to application for examination) pertaining to registered nurses; section 5 of the Practical Nurse Law (63 P.S. § 655) and § 21.158 (relating to qualifications of application for examination) pertaining to licensed practical nurses; section 8.1 of The Professional Nursing Law (63 P.S. § 218.1) and § 21.271 (relating to certification requirements) pertaining to certified registered nurse practitioners; section 6(b) and (c) of The Professional Nursing Law (63 P.S. § 216(b) and (c)) and § 21.721 (relating to qualifications for licensure) pertaining to dietitians-nutritionists; and section 8.5 of The Professional Nursing Law (63 P.S. § 218.5) and § 21.811 (relating to qualifications for initial certification) pertaining to clinical nurse specialists. The following apply:

(i) An applicant must 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 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 for the license or certificate being sought through experience in the profession by documenting, at a minimum, that the applicant has actively engaged in a total of 3,600 hours, with no more than 1,800 hours per year. This experience shall be in the practice of the profession 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.

(3) Demonstrate English language proficiency by one of the following:

(i) The applicant's educational program was taught in English.

(ii) The applicant's clinical experience was obtained at an English-speaking facility.

(iii) The applicant's post-licensure experience in paragraph (2) was obtained at an English-speaking facility.

(iii) The applicant has achieved the passing score on a Board-approved English language proficiency examination.

(4) Have not committed an act that constitutes grounds for refusal, suspension or revocation of a license, certificate, registration or permit to practice the profession under section 14(a) of The Professional Nursing Law (63 P.S. § 224(a)), section 16(a) of the Practical Nurse Law (63 P.S. § 666(a)) and §§ 21.18 and 21.148 (relating to standards of nursing conduct).

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

(6) Have paid the fee as required by § 21.1104 (relating to licensure by endorsement fee).

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

(8) 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 Subchapter E (relating to child abuse reporting requirements).

(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)(4) and (5), the Board may, in its discretion, determine that an act prohibited under section 14(a) of The Professional Nursing Law, section 16(a) of the Practical Nurse Law and §§ 21.18 and 21.148 or disciplinary action by a jurisdiction is not an impediment to licensure or certification by endorsement under 63 Pa.C.S. § 3111.

**§ 21.1103. 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 remaining requirements for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) and § 21.1102 (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) The Board completes its assessment of the applicant and denies or grants the license.

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

(3) The provisional endorsement license expires.

(d) *Reapplication.* An individual may apply for licensure by endorsement or certification under § 21.1102 after expiration or termination of a provisional endorsement license; however, the individual may not be issued a subsequent provisional endorsement license.

**§ 21.1104. Licensure by endorsement fee.**

An applicant for licensure by endorsement under 63 Pa.C.S. § 3111 (relating to licensure by endorsement) shall pay a fee of \$120.

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