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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

April 29, 1999

Paula L. Castor, R.Ph., Chairperson
State Board of Pharmacy
116 Pine Street
Harrisburg, PA 17105

Re: IRRC Regulation #16A-548 (#2006)
State Board of Pharmacy
Application Fees

Dear Chairperson Castor:

Enclosed are our Comments on your proposed regulation #16A-548. They are also available on our website at <http://www.irrc.state.pa.us>.

The Comments list our objections and suggestions for your consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you want to meet with us to discuss these Comments, please contact John Jewett at 783-5475.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce
Executive Director

REN:cae

Enclosure

cc: April L. McClaine
C. Michael Weaver
Kim Pizzingrilli
Dorothy Childress
Office of General Counsel
Office of Attorney General
Pete Tartline

IRRC Regulation #16A-548
State Board of Pharmacy
Application Fees

Honorable Paula L. Castor, R.Ph., Chairperson
State Board of Pharmacy

A handwritten signature in black ink that reads "Chris Stuckey".

RECEIVED

Date:

4/29/99

INDEPENDENT REGULATORY REVIEW COMMISSION

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MEMORANDUM

To: Thomas Golden, Executive Director
Hon. Mario J. Civera, Jr., Chairman
House Professional Licensure Committee

Alexandra Matthews-Ritter, Counsel
Hon. Clarence D. Bell, Chairman
Senate Consumer Protection and
Professional Licensure Committee

Barbara Harr, Executive Director
Hon. William W. Rieger
Democratic Chairman
House Professional Licensure Committee

Bernard Kieklak, Executive Assistant
Hon. Lisa M. Boscola
Democratic Chairman
Senate Consumer Protection and
Professional Licensure Committee

From: John H. Jewett - 783-5475
Independent Regulatory Review Commission

Date: April 30, 1999

Subject: Commission's Comments -- Proposed Regulation #16A-548 (#2006)
State Board of Pharmacy
Application Fees

On April 29, 1999, the Commission submitted its comments to the State Board of Pharmacy on the referenced proposed regulation. A copy is attached for your review.

In addition, the Commission's comments on this regulation and others are also available at the Commission's website at www.irrc.state.pa.us.

If you have comments or questions, please contact me at 783-5475. Thank you for your time and consideration.

ATTACHMENT

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION

ON

STATE BOARD OF PHARMACY REGULATION NO. 16A-548

APPLICATION FEES

APRIL 29, 1999

We have reviewed this proposed regulation from the State Board of Pharmacy (Board) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to fiscal impact, consistency and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 27.91. Schedule of fees. - Fiscal Impact, Consistency and Clarity

Administrative overhead costs

In the proposed regulation's fee report forms, there are significant differences in the costs covered by different fees except for "Administrative Overhead" costs. We met and discussed this situation with staff from the Department of State and its Bureau of Professional and Occupational Affairs (BPOA). They indicated that each fee's overhead cost is calculated by dividing total overhead costs by the number of active licensees. On the other hand, the staff costs are based on the actual time BPOA staff spends performing the tasks covered by each fee.

Although their methodology is reasonable, there is no indication that the fees will recover the actual "overhead" costs. This is because there is no relationship to the service covered by the fees and because the costs are based on past expenditures rather than on projected expenditures. Hence, there is no certainty that the fees' projected revenues "will meet or exceed projected expenditures" pursuant to Section 8.2(a) of the Pharmacy Act (63 P.S. § 390-8.2(a)).

We question the use of a constant overhead cost that is unrelated to the actual costs of activities covered by different fees. Even though this process was used for other fees, why should BPOA maintain this approach? The Board and BPOA should thoroughly examine its cost allocation methodology for overhead expenses and itemize the overhead costs to be recouped by these fees.

Board duties for certification and verification

The House Professional Licensure Committee requested additional information from the Board in two areas. First, it questioned the Board's role in the certification of scores and intern hours. In addition, it noted that the description of Board staff functions in the fee report forms for certification and verification fees were the same. However, there was a significant difference in the staff time and costs for these fees. Staff time for certification equaled 45 minutes at a cost of \$15.23. Staff time for verification was 4.8 minutes at a cost of \$1.62.

Why does the Board certify scores? How much work is required to provide the services covered by these three fees? The Board should explain in detail the answers to these questions when it submits the final-form version of this regulation.