

Regulatory Analysis Form

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IRRC REVIEW COMMISSION



(1) Agency

Department of State, Bureau of Professional and
Occupational Affairs, State Board of Physical Therapy

(2) I.D. Number (Governor's Office Use)

16A-655

IRRC Number:

2017

(3) Short Title

Application Fees

(4) PA Code Cite

49 Pa. Code §41.12

(5) Agency Contacts & Telephone Numbers

Primary Contact: Beth Sender Michlovitz, Counsel
State Board of Physical Therapy
(717)783-7200

Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Regulatory Review
(717)78 3-1088

(6) Type of Rulemaking (check one)

Proposed Rulemaking
☒ Final Order Adopting Regulation
Final, Proposed Omitted

(7) Is a 120-Day Emergency Certification
Attached?

☒ No
Yes: By the Attorney General
Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation amends the fee schedule for the State Board of Physical Therapy to revise fees for reapplication and certification fees and to create new fees for verification of licenses. The new fees are needed to cover the cost of providing those services.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulatory amendments are adopted under Section 8(b) of the Physical Therapy Practice Act (Act), Act of October 10, 1975, P.L. 383, as amended, 63 P.S. §1308(b).

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. The Board is required by statute to adopt regulations setting fees. See Item No. 9 for the specific law.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The enabling statute of the Board requires that the Board set fees by regulation so that revenues meet or exceed expenditures over a biennial period. The operating expenses of the Board are generally borne by the licensee population through biennial renewal revenue. Expenses related to services which are provided directly to individual licensees or applicants are excluded from general operating revenues so that only the licensee who uses a particular service pays for a service being provided to him or her. By this regulation, the cost of providing the service will be apportioned to users, rather than burdening the entire licensee population.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Nonregulation could potentially adversely impact the fiscal integrity of the Board. If left unregulated, the costs of providing these services would be borne by the general licensing population, some of whom did not or would not receive a benefit from the service.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The licensing population generally will benefit by having costs of services which are utilized by only a portion of the licensees or applicants paid by those actually using the service.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Board has identified no group of individuals or entities who will be adversely affected by the regulation. Applicants for services or licenses will be required to bear the up-to-date costs of providing the services involved.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Physical therapy applicants and licensees utilizing these particular services will be required to pay these fees.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Notice of proposed rulemaking was published at 29 Pa. B. 1615 (March 27, 1999). Publication was followed by a 30-day public comment period during which the Board received no comments. Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee and the Independent Regulatory Review Commission.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The Board estimates that 4,750 persons will avail themselves of one or more of the enumerated services within a biennial period. Total aggregate additional cost for the regulated community for a biennial period would be approximately \$9,500.00. However, only those requesting the services will be affected. Also, due to a decrease in application fees for licensure through foreign training, a savings of approximately \$40,750 will be recognized by that regulated community. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments would not be affected by the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The Board will not incur an increase in administrative costs by implementing the regulation. Indeed, the regulatory amendments will permit the Board to recoup the costs of providing the enumerated services.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated	\$20,375	\$20,375	\$20,375	\$20,375	\$20,375	\$20,375
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated	\$20,125	\$20,125	\$20,125	\$20,125	\$20,125	\$20,125
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

The cost estimates are based upon the following number of persons which the Board estimates will avail themselves of the specified service over a fiscal year period (one-half biennium) multiplied by the savings or additional cost to the applicant for the service:

	<u># of people/year</u>		<u>Cost(c) or Savings(s)</u>		
a) PT license by exam or endorsement	725	X	\$ 10(s)*	=	\$ 7,250(s)
b) PT lic./foreign trained candidate	175	X	\$115(c)**	=	\$ 20,125(c)
c) PTA reg./by exam or endorsement	425	X	\$ 15(s)	=	\$ 6,375(s)
d) certification of license or scores	300	X	\$ 10(s)	=	\$ 3,000(s)
e) verification of license	750	X	\$ 5(s)	=	\$ 3,750(s)

* designates savings

** designates additional cost

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

	1995-96	1996-97	1997-98	1998-99 Budgeted
Program	FY -3	FY -2	FY -1	Current FY
State Board of Physical Therapy	274,267.56	283,080.73	235,037.81*	273,000.00

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The amendments to the existing regulations will assure that the costs of providing the specified services to certain applicants and licensees will be borne by individuals who receive the service.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered because the Board's enabling statute requires the Board to promulgate regulations to establish fees or changes thereto.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

See No. 22 above.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No federal licensure standards apply.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulatory changes will not put Pennsylvania at a competitive disadvantage. The following is a fee comparison of border states. See Page 9.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will have no effect on other regulations of the Board or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

In light of the statutory mandate, the Board has scheduled no public hearings or informational meetings regarding this regulation.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No changes to reporting, recordkeeping or other paperwork are required by this regulation.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board has perceived no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication as an Order of Final Rulemaking in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Board reviews its revenues and costs of its programs on a fiscal year and biennial basis.

FEE COMPARISON						
PHYSICAL THERAPY						
	PA	NJ	NY(tri)*	MD	OH	DE**
PT App. By End. or Exam	30	125	270(no end.)	125	100	
PT App.-Foreign Educated	45	125	279(no end.)	125	100	
PT Limited/Temp. Permit		75 to 100	70	no add'l	0	
PTA App-by End. or Exam	30	125	95	125	100	
Verify Lic/Reg/Permit	15	40	10	20	30	
Certify Lic/Scores/Hours	25	40	20	-	30	

*NY not req'd to be financially self-sufficient/38 boards funded out of same account.

**DE has a fee structure that depends entirely upon how much money is needed at any given time. Fees are set at time of renewal. Most service fees are \$10.

FEE REPORT FORM

Agency: State - BPGA

Date: 04/10/00

Contact: David Williams

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Physical Therapy License Application Fee(by endorsement or examination): \$ 30.00

Estimated Biennial Revenue: \$ 43,500.00 (1,450 applications x \$30.00)

Fee Description:

The fee will be charged to each applicant for licensure as a Physical Therapist, whether applying by endorsement or examination.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Physical Therapy to review and process an application and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- review application:	(1.00/hr)	20.30
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Administrative Overhead:		5.23
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Total Estimated Cost:	<u>25.53</u>
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Proposed Fee:	\$ 30.00
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Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to process an application for licensure as a Physical Therapist, whether applying by examination or endorsement.

Board staff receives application, contacts applicant to request any missing information, reviews for completeness and compliance with regulations.

If all qualifications are met, the professional testing service is notified to schedule candidate (examination candidates) or the license is issued through the computer (endorsement candidates). If qualifications are not met, the applicant is notified by letter.

FEE REPORT FORM

Agency: State - BPOA

Date: 04/10/00

Contact: David Williams

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Physical Therapy License Application Fee/Foreign-Trained Candidate: \$ 45.00

Estimated Biennial Revenue: \$ 15,750.00 (350 applications x \$45.00)

Fee Description:

The fee will be charged to each foreign-trained applicant for licensure as a Physical Therapist.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Physical Therapy to review and process an application and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Administrator-process application:	(1.00/hr)	30.20
Averaged Legal Time:	(0.08/hr)	4.27
Averaged Board Member Review:	(0.25/hr)	2.00
Administrative Overhead:		<u>5.23</u>

Total Estimated Cost: 41.70

Proposed Fee: \$ 45.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$45.00 be established to process a foreign-trained candidates application for licensure.

Board administrator receives application, reviews for completeness, contacts applicant to request any missing information, forwards to Board member for review of qualifications. Application may also require review by legal staff to ascertain compliance with regulations. Additional time to cover cost of their review has been averaged over the number of applications anticipated since it is not possible to know in advance which applications will require the additional review.

When decision is made regarding qualification for licensure, applicant is notified by receiving license or letter of rejection.

FEE REPORT FORM

Agency: State - BPOA

Date: 04/10/00

Contact: David Williams

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Physical Therapy Assistant License Application Fee: \$ 30.00

(by examination or endorsement)

Estimated Biennial Revenue: \$ 25,500.00 (850 applications x \$30.00)

Fee Description:

The fee will be charged to each applicant for licensure as a Physical Therapist Assistant, whether applying by endorsement or examination.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Physical Therapy to review and process an application and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- review application:	(1.00/hr)	20.30
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Administrative Overhead:		5.23
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Total Estimated Cost:	<u>25.53</u>
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Proposed Fee:	\$ 30.00
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Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to process an application for licensure as a Physical Therapist Assistant, whether applying by examination or endorsement.

Board staff receives application, contacts applicant to request any missing information, reviews for completeness and compliance with regulations.

If all qualifications are met, the professional testing service is notified to schedule candidate (examination candidates) or the license is issued through the computer (endorsement candidates). If qualifications are not met, the applicant is notified by letter.

FEE REPORT FORM

Agency: State - BPOA
Contact: David Williams

Date: 04/10/00

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Certification of Scores, License, Registration or Certificate: \$ 25.00

Estimated Biennial Revenue: \$15,000.00 (600 certifications x \$25.00)

Fee Description:

The fee will be charged to every applicant who requests certification of scores, license, registration or certificate.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Physical Therapy to review and process a request for certification and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- process request for certification (.75 hr)	15.23
Bureau Average Administrative Overhead:	<u>9.76</u>
Total Estimated Cost:	\$24.99
Proposed Fee:	\$25.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$25.00 be established for certification of scores, license, registration or certificate.

Page 2 Certification of Scores, License, Registration or Certificate: 04/10/00

Board Staff: Reviews request for certification; researches computer and microfilm files to retrieve pertinent information, transfers that information onto document submitted by requester, affixes Bureau seal onto documents, forwards as instructed by applicant.

FEE REPORT FORM

Agency: State - BPOA

Date: 04/10/00

Contact: C. Michael Weaver

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Verification of License, Certification, Registration or Temporary Permit: \$15.00

Estimated Biennial Revenue: \$22,500.00 (1,500 verifications x \$15.00)

Fee Description:

The fee will be charged to every applicant who requests verification of license, certification, registration or temporary permit.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Physical Therapy to review and process a request for verification and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- process request for verification	(.08 hr)	1.62
Bureau Average Administrative Overhead:		<u>9.76</u>
	Total Estimated Cost:	\$11.38
	Proposed Fee:	\$15.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$15.00 be established for verification of license, certification, registration or temporary permit.

Page 2

Verification of License, Certification, Registration, or Temp. Permit: 04/10/00

Board Staff: Reviews request for verification, researches computer, microfilm or other files to retrieve pertinent information, issues computer generated document, affixes Bureau seal onto document, forwards as instructed by applicant.

Subchapter K. RESPIRATORY CARE PRACTITIONERS

§ 25.503. Fees.

The following is the schedule of fees charged by the Board:

(1) Temporary permit	\$[15]30
(2) Initial [certification] license application	\$[15]30
(3) Certification examination	[\$90
(Effective 7-96)]	\$100
* * * * *	

[Pa.B. Doc. No. 99-301. Filed for public inspection March 26, 1999, 9:00 a.m.]

STATE BOARD OF PHYSICAL THERAPY

[49 PA. CODE CH. 40]

Fees

The State Board of Physical Therapy (Board) proposes to amend §§ 40.5 and 40.153 (relating to fees) by revising certain application fees to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The proposed amendments are authorized under section 8(b) of the Physical Therapy Practice Act (act) (63 P.S. § 1308(b)).

C. Background and Purpose

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses of the Board are funded through biennial license renewal fees. Expenses related to applications or services which are provided directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee.

In a recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs, the fees for services to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

$$\frac{\text{number of minutes to perform the function}}{\text{pay rate for the classification of personnel performing the function}} + \text{a proportionate share of administrative overhead.}$$

The analysis determined that certain fees were insufficient to capture the actual cost of providing the service whereas certain other fees were more than sufficient to capture the cost of providing the service. For example, the proposed fee for an application for licensure as a physical

therapist by foreign training would be reduced from \$160 to \$45 which is the actual cost of processing this application.

In this proposal, fees for the services identified would be adjusted to allocate costs to those who use the service or application. The Board would continue to apportion the enforcement and operating costs to the general licensing population when the Board makes its biennial reconciliation of revenue and expenditures.

In addition, this proposal combines all fees into one section rather than splitting fees pertaining to physical therapist assistants into a separate section.

D. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposed amendments the Board considered the least restrictive alternative to regulate costs for services requested by licensees and applicants.

E. Fiscal Impact and Paperwork Requirements

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from the Board. The proposed amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

F. Sunset Date

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

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 17, 1999, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the Board, the General Assembly and the Governor, of objections raised.

H. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Robert Kline, Administrative Assistant, State Board of Physical Therapy, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-655 (Application Fees), when submitting comments.

JAY IRRGANG,
Chairperson

Fiscal Note: 16A-655. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL
STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL
AFFAIRSCHAPTER 40. STATE BOARD OF PHYSICAL
THERAPY

Subchapter A. PHYSICAL THERAPISTS

GENERAL PROVISIONS

§ 40.5. Fees.

The following fees are charged by the Board:

Physical therapist:

Application for licensure by
examination/endorsement..... \$[20] 30
[Application for licensure by endorsement . \$20]
Application for licensure [by] through foreign
training..... \$[160] 45

[*Physical therapy examination:*

(Effective 11/95).....\$230]
Verification of licensure or temporary
permit \$15
Certification of examination scores or
licensure..... \$25
Examination [(Effective 3/97)] \$245

* * * * *

Athletic trainer:

* * * * *

[Physical therapist assistant listing..... \$15]
Certification of examination scores or certification
[of licensure] \$[15] 25
Verification of [licensure or]
certification \$[10] 15

Physical therapist assistants:

Initial application for registration by exam \$30
or endorsement.....
Registration examination..... \$230
Certification of exam scores or registration \$25
Biennial renewal of registration..... \$20
Verification of registration \$15

Subchapter C. PHYSICAL THERAPIST
ASSISTANTS

GENERAL PROVISIONS

§ 40.153. [Fees] (Reserved).

[The following is a schedule of fees charged by
the Board:

Initial registration..... \$15
Physical Therapist Assistant Registration Ex-
amination
(effective 11/95) \$230
Certification of registration \$15
Biennial renewal of registration..... \$20]

[Pa.B. Doc. No. 99-502. Filed for public inspection March 26, 1999, 9:00 a.m.]

Subchapter K. RESPIRATORY CARE PRACTITIONERS

§ 25.503. Fees.

The following is the schedule of fees charged by the Board:

(1) Temporary permit	\$[15]30
(2) Initial [certification] license appli- cation	\$[15]30
(3) Certification examination	[\$90
(Effective 7-96)]	\$100
* * * * *	

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[49 PA. CODE CH. 40]

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In a recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs, the fees for services to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

$$\begin{array}{l} \text{number of minutes to perform the function} \\ \times \\ \text{pay rate for the classification of personnel performing} \\ \text{the function} \\ + \\ \text{a proportionate share of administrative overhead.} \end{array}$$

The analysis determined that certain fees were insufficient to capture the actual cost of providing the service whereas certain other fees were more than sufficient to capture the cost of providing the service. For example, the proposed fee for an application for licensure as a physical

therapist by foreign training would be reduced from \$160 to \$45 which is the actual cost of processing this application.

In this proposal, fees for the services identified would be adjusted to allocate costs to those who use the service or application. The Board would continue to apportion the enforcement and operating costs to the general licensing population when the Board makes its biennial reconciliation of revenue and expenditures.

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E. Fiscal Impact and Paperwork Requirements

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JAY IRRGANG,
Chairperson

Fiscal Note: 16A-655. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL
STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL
AFFAIRSCHAPTER 40. STATE BOARD OF PHYSICAL
THERAPY

Subchapter A. PHYSICAL THERAPISTS

GENERAL PROVISIONS

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Application for licensure [by] through foreign
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[*Physical therapy examination:*

(Effective 11/95).....\$230]

Verification of licensure or temporary
permit \$15

Certification of examination scores or
licensure..... \$25

Examination [(Effective 3/97)] \$245

* * * * *

Athletic trainer:

* * * * *

[Physical therapist assistant listing..... \$15]

Certification of examination scores or certification
[of licensure] \$[15] 25

Verification of [licensure or]
certification \$[10] 15

Physical therapist assistants:

Initial application for registration by exam
or endorsement..... \$30

Registration examination..... \$230

Certification of exam scores or registration \$25

Biennial renewal of registration..... \$20

Verification of registration \$15

Subchapter C. PHYSICAL THERAPIST
ASSISTANTS

GENERAL PROVISIONS

§ 40.153. [Fees] (Reserved).

[The following is a schedule of fees charged by
the Board:

Initial registration..... \$15

Physical Therapist Assistant Registration Ex-
amination

(effective 11/95) \$230

Certification of registration \$15

Biennial renewal of registration..... \$20]

[Pa.B. Doc. No. 99-502. Filed for public inspection March 26, 1999, 9:00 a.m.]

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**
(Pursuant to Commonwealth Documents Law)

RECEIVED
2000 OCT 30 AM 11:30
LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

#2017

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)State Board of Physical Therapy
(AGENCY)DOCUMENT/FISCAL NOTE NO. 16A-655

DATE OF ADOPTION: _____

BY: James J. Irrgang6/7/00
DATE OF APPROVAL(Deputy General Counsel
(Chief Counsel,
Independent Agency
(Strike inapplicable
title)TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)[] Check if applicable
Copy not approved.
Objections attached.[] Check if
applicable. No Attorney
General approval or
objection within 30 day
after submission.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY
49 PA. CODE, CHAPTER 40
FEES

The State Board of Physical Therapy (Board) hereby amends its regulation at 49 Pa. Code §40.5 and §40.153 by revising certain application fees as set forth in Annex A.

The regulation amends application and some certification fees and creates other certification and verification fees to reflect the Board's actual cost of providing the services.

Notice of proposed rulemaking was published at 29 Pa. B. 1615 (March 27, 1999). Publication was followed by a 30-day public comment period during which the Board received no public comments. Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

The following is a response to the comments.

Certification and Verification Fee

The HPLC questioned under what circumstances the Board "certifies" an examination score. The HPLC and IRRC also requested an explanation of the difference between a verification and certification and an explanation of what accounts for the differential in fees.

The certification of a score is made at the request of a licensee when the licensee is seeking to obtain licensure in another state based upon licensure in Pennsylvania which was issued on the basis of a uniform national or regional examination which was taken in Pennsylvania. Generally the state of original licensure is the only source of the score of the licensee as testing agencies do not maintain this information. The licensure laws of many states include provisions that Licensure by reciprocity or endorsement based on Licensure in another state will be granted only if the board or agency determines that the qualification are the same or substantially similar. Many state agencies have interpreted this provision to require that licensees have attained a score equal to or exceeding the passing rate in that jurisdiction at the time of original Licensure. For this reason, these states require that the Pennsylvania Board and other boards certify the examination score the applicant achieved on the licensure examination.

As noted in proposed rulemaking, the difference between the verification and certification fees is the amount of time required to produce the document requested by the licensee. As noted above, states request different information when making a determination as to whether to grant licensure based on reciprocity or endorsement from another state. The Bureau has been able to create two documents from its records that will meet all of the needs of the requesting state. The licensee, when she applies to the other state, receives information as to what documentation and form is acceptable in the requesting state. The Bureau then advises the licensee of the type of document the Bureau can provide and the fee. In the case of a "verification" the staff produces the requested documentation by a letter, usually computer generated, which contains the license number, date of original issuance and current expiration date, and status of the license. The letters are printed from the Bureau's central computer records and sent to the Board staff responsible for handling the licensee's application. The letters are sealed, folded and mailed in accordance with the directions of the requestor. The Bureau estimates the average time to prepare this document to be five minutes. The Bureau uses the term "certification fee" to describe the fee for a request for a document, again generally to support reciprocity or endorsement applications to other states, territories or countries, or for employment of training in another state. A certification document contains information specific to the individual requestor. It may include dates or location where examinations were taken, the scores achieved or hours and location of training. The information is entered onto a document which is usually supplied by the requestor. The average time to prepare a certification is 45 minutes. This is because a number of resources, such as files, microfilm and rosters must be retrieved and consulted in order to provide the information requested. The Board staff then seals and issues this document.

Administrative Overhead

IRRC requested that the Bureau and the Board: (1) itemize the overhead cost to be recouped by the fees; and (2) re-examine the method that is used to determine the administrative overhead factor for each fee.

IRRC commented that although the Bureau's method was reasonable, there was no assurance that the fees would recover the actual overhead cost because the charge was not related to the service, and because the charge was based on the actual rather than the projected expenditures. IRRC also commented that there was no certainty that the projected revenues would meet or exceed projected expenditures, as required under the Board's enabling statute.

In computing overhead charges, the boards and the Bureau include expenses resulting from service of support staff operations, equipment, technology initiatives or upgrades, leased office space and other sources not directly attributable to a specific board. Once determined, the Bureau's total administrative charge is apportioned to each board based upon that board's share of the total active licensee population. In turn, the board's administrative charge is divided by the number of active licensees to calculate a "per application" charge which is added to direct personnel cost to establish the cost of processing. The administrative charge is consistently applied to every application regardless of how much time the staff spends processing the application.

This method of calculating administrative overhead to be apportioned to fees for services was first included in the biennial reconciliation of fees and expenses conducted in 1988-89. In accordance with the regulatory review, the method was approved by the Senate and House Standing Committees and IRRC as reasonable and consistent with the legislative intent of statutory provisions which require the Board to establish fees which meet or exceed expenses.

IRRC suggested that within each board, the administrative charge should be determined by the amount of time required to process each application. For example, an application requiring one-half hour of processing time would pay one-half as much overhead charge as an application requiring one hour of processing time. The Bureau concurs with IRRC that by adopting this methodology the Bureau and the Boards would more nearly and accurately accomplish their objective of setting fees that cover the cost of the service. Therefore, in accordance with IRRC's suggestions, the Bureau conducted a test to compare the resulting overhead of charge obtained by applying IRRC suggested time factor versus the current method. This review of a boards' operation showed that approximately 25% of staff time was devoted to providing services described in the regulations. The current method recouped 22% to 28% of the administrative overhead charges versus the 25% recouped using a ratio-based time factor. However, when the time factor is combined with the licensing population for each board, the resulting fees vary widely even though different licensees may receive the same services. For example, using the time-factor method to issue a verification of licensure would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Conversely, under the Bureau method the administrative overhead charge of \$9.76 represents the cost of processing a verification application for all licensees in the Bureau. Also, the Bureau found that employing a time factor in the computation of administrative overhead would result in a different amount of overhead charge being made for each fee proposed.

With regard to IRRC's suggestions concerning projected versus actual expenses, the Board notes that the computation of projected expenditures based on amounts actually expended has been the basis for biennial reconciliations for the past ten years. During these five biennial cycles, the experience of both the boards and the Bureau has been that established and verifiable data which can be substantiated by collective bargaining agreements, pay scales and cost benefit factors. This method has provided a reliable basis for fees. Also, the fees are kept at a minimum for licensees, but appear adequate to sustain the operations of the boards over an extended period. Similarly accounting, record keeping and swift processing of applications, renewals and other fees were the primary basis for "rounding up" the actual costs to establish a fee. This rounding up process has in effect resulted in the necessary but minimal cushion or surplus to accommodate unexpected needs and expenditures.

For these reasons, the Board has not made changes in the method by which it allocates administrative expenditures and the resulting fees will remain as proposed.

Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from the Board. The amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Statutory Authority

The amendments are authorized under Section 8(b) of the Physical Therapy Practice Act (Act), Act of October 10, 1975, P.L. 383, as amended, 63 P.S. §1308(b).

Sunset Date

The Board continually monitors the effectiveness of its regulations through communications with the regulated population; accordingly, no sunset date has been set.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), (71 P.S. §§745.1 -745.15), the agency submitted a copy of the Notice of Proposed Rulemaking, published at 29 Pa. B. 2145, on April 24, 1999, to the IRRC and the Chairmen of the HPLC and the SCP/PLC for review and comment. In compliance with Section 5(b.1), the agency also provided the IRRC and the committees with copies of all comments received, as well as other documentation.

In preparing this final form regulation the agency has considered all comments received from the Committees, IRRC and the public.

This final form regulation was (deemed) approved by the HPLC on _____ and (deemed) approved by the SCP/PLC on _____. The IRRC met on _____ and (deemed) approved the regulation in accordance with Section 5(e) of the Act.

Contact Person

Further information may be obtained by contacting Robert Kline, Administrative Assistant, State Board of Physical Therapy, at P. O. Box 2649, Harrisburg, PA 17105-2649; telephone (717) 783-7134.

Findings

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769) (45 P.S. §§1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This amendment does not enlarge the purpose of proposed rulemaking published at 29 Pa. B. 2145.

(4) This amendment is necessary and appropriate for administration and enforcement of the Board's authorizing statute.

Order

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

(1) The regulations of the Board, 49 Pa. Code Chapter 40, are amended as set forth in Annex A.

(2) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(3) The Board shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon publication in the Pennsylvania Bulletin.

Annex A
Title 49. Professional and Vocational Standards
Part I. Department of State
Subpart A. Professional and Occupational Affairs
Chapter 40. State Board of Physical Therapy
Subchapter A. General Provisions

* * *

§40.5. Fees.

The following fees are charged by the Board:

Physical therapist:

Application for licensure by examination/endorsement.....	[\$20] \$30
[Application for licensure by endorsement.....]	\$20]
Application for licensure [by] <u>thru</u> foreign training.....	[\$160] \$45
<u>Verification of licensure or temporary permit.....</u>	\$15
<u>Certification of examination scores or licensure.....</u>	\$25
[Physical therapy examination (Effective 11/95).....]	\$230]
Examination [(Effective 3/97)].....	\$245
Temporary license.....	\$15
Biennial renewal.....	\$37

Athletic trainer:

Application for certification.....	\$20
Athletic trainer examination.....	\$83.75
Biennial renewal.....	\$37
[Physical therapist assistant listing.....]	\$15]
Certification of examination scores or certification [of licensure].....	[\$15] \$25
Verification of [licensure or] certification.....	[\$10] \$15

Physical therapist assistants:

<u>Initial application for registration by exam or endorsement...</u>	<u>\$30</u>
<u>Registration examination.....</u>	<u>\$230</u>
<u>Certification of exam scores or registration.....</u>	<u>\$25</u>
<u>Biennial renewal of registration.....</u>	<u>\$20</u>
<u>Verification of registration.....</u>	<u>\$15</u>

* * *

Subchapter C. Physical Therapist Assistants

* * *

§40.153. [Fees.] Reserved.

[The following is a schedule of fees charged by the Board:

Initial registration.....	\$15
Physical therapist assistant registration examination (Effective 11/95)...	\$230
Certification of registration.....	\$15
Biennial renewal of registration.....	\$20]

* * *



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY**

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

October 30, 2000

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

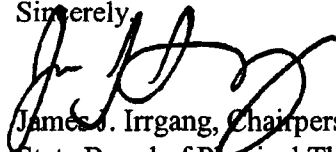
Re: Final Regulation
State Board of Physical Therapy
Application Fees: 16A-655

Dear Chairman McGinley:

Enclosed is a copy of a Final Regulation package of the State Board of Physical Therapy pertaining to application fees.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,



James J. Irrgang, Chairperson
State Board of Physical Therapy

JJI/BSM:kp

Enclosure

c: John T. Henderson, Jr., Chief Counsel
Department of State
David M. Williams, Deputy Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Lee Ann H. Murray, Regulatory Counsel
Bureau of Professional and Occupational Affairs
Herbert Abramson, Senior Counsel in Charge
Bureau of Professional and Occupational Affairs
Beth Sender Michlovitz, Counsel
State Board of Physical Therapy
State Board of Physical Therapy



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-3124

October 30, 2000

The Honorable William W. Rieger, Minority Chairman
Professional Licensure Committee
PENNSYLVANIA HOUSE OF REPRESENTATIVES
327-C Main Capitol
Harrisburg, Pennsylvania 17120

Re: Final Regulation
State Board of Physical Therapy
Application Fees: 16A-655

Dear Representative Rieger:

Enclosed is a copy of a Final Regulation package of the State Board of Physical Therapy pertaining to application fees.

The Board will be pleased to provide whatever information the Committee may require during the course of its review of the rulemaking.

Sincerely,

James J. Irrgang, Chairperson
State Board of Physical Therapy

JJL/BSM:kp
Enclosure

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Department of State
David M. Williams, Deputy Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
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State Board of Physical Therapy



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

October 30, 2000

The Honorable Mario J. Civera, Jr., Chairman
Professional Licensure Committee
PENNSYLVANIA HOUSE OF REPRESENTATIVES
315-D Main Capitol
Harrisburg, Pennsylvania 17120

Re: Final Regulation
State Board of Physical Therapy
Application Fees: 16A-655

Dear Representative Civera:

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Sincerely,

James J. Irrgang, Chairperson
State Board of Physical Therapy

JJI/BSM:kp
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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

October 30, 2000

The Honorable Lisa M. Boscola, Minority Chairperson
Consumer Protection and Professional Licensure Committee
SENATE OF PENNSYLVANIA
633 Main Capitol
Harrisburg, Pennsylvania 17120

Re: Final Regulation
State Board of Physical Therapy
Application Fees: 16A-655

Dear Senator Boscola:

Enclosed is a copy of a Final Regulation package of the State Board of Physical Therapy pertaining to application fees.

The Board will be pleased to provide whatever information the Committee may require during the course of its review of the rulemaking.

Sincerely,

James J. Irrgang, Chairperson
State Board of Physical Therapy

JJI/BSM:kp
Enclosure

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Department of State
David M. Williams, Deputy Commissioner
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**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY**

**Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134**

October 30, 2000

The Honorable Clarence D. Bell, Chairman
Consumer Protection and Professional Licensure Committee
SENATE OF PENNSYLVANIA
20 Main Capitol, East Wing
Harrisburg, Pennsylvania 17120

Re: Final Regulation
State Board of Physical Therapy
Application Fees: 16A-655

Dear Senator Bell:

Enclosed are twenty copies of a Final Regulation package of the State Board of Physical Therapy pertaining to application fees.

The Board will be pleased to provide whatever information the Committee may require during the course of its review of this rulemaking.

Sincerely,

James J. Irrgang, Chairperson
State Board of Physical Therapy

JJI/BSM:kp
Enclosure

c: John T. Henderson, Jr., Chief Counsel
Department of State
David M. Williams, Deputy Commissioner
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**COMMONWEALTH OF PENNSYLVANIA
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BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHYSICAL THERAPY**

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

October 30, 2000

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101


Re: Final Regulation
State Board of Physical Therapy
Application Fees: 16A-655

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Sincerely,



James J. Irrgang, Chairperson
State Board of Physical Therapy

JJI/BSM:kp

Enclosure

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Bureau of Professional and Occupational Affairs
Beth Sender Michlovitz, Counsel
State Board of Physical Therapy
State Board of Physical Therapy

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

RECEIVED

I.D. NUMBER: 16A-655
SUBJECT: State Board of Physical Therapy - Application Fees
AGENCY: DEPARTMENT OF STATE

2000 OCT 30 AM 11:30

REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

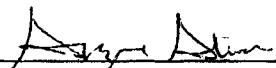
FILING OF REGULATION

DATE

SIGNATURE


DESIGNATION

10-30-00



HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

OCT 30 2000



SENATE COMMITTEE ON CONSUMER PROTECTION &
PROFESSIONAL LICENSURE

10/30/00



INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL

LEGISLATIVE REFERENCE BUREAU

June 7, 2000