

# Regulatory Analysis Form

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

**(1) Agency**

Department of State, Bureau of Professional and Occupational Affairs, State Board of Osteopathic Medicine

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

16A-5310

IRRC Number: # 2018

**(3) Short Title**

Application Fees

**(4) PA Code Cite**

49 Pa. Code §§25.231 and 25.503

**(5) Agency Contacts & Telephone Numbers**

Primary Contact: Herbert Abramson, Counsel  
3-7200

Secondary Contact: Joyce McKeever, Deputy Chief  
Counsel, DOS - 3-7200

**(6) Type of Rulemaking (check one)**

Proposed Rulemaking  
 Final Order Adopting Regulation  
Final Order, Proposed Rulemaking 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 Osteopathic Medicine by revising fees for the application for an unrestricted license, application for a short term camp license, temporary training license or graduate training certificate, application for physician assistant certificate, application

(Continued on Page 9)

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

Section 13.1(a) of the Osteopathic Medical Practice Act, Act of October 5, 1978, P.L. 1109, as amended, 63 P.S. §271.13a(a).

## **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 requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. The general operating expenses of the Board are borne by the licensee population through revenue generated by the biennial renewal of licenses. Expenses related to specific 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 the service being provided to him or her. By this regulation the cost of providing the service will be accurately apportioned to users of the services.

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

At the present time some application and non-renewal fees exceed or fall below actual costs of reviewing applications and providing services. Those fees which exceed actual costs result in a windfall to general operating revenues. Those fees which fall below actual cost fall on the shoulders of the general licensing population.

**(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 is not aware of any person or groups who would 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.)**

All licensees of the Board will be required to comply with the regulations. There are approximately 7981 persons who possess current licenses, certificates, and registrations issued by the Board. The Board estimates that approximately 2,027 persons will avail themselves of one or more of the enumerated services in a two-year period.

**(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.**

These regulations do not place requirements on licensees concerning their conduct or compliance with state law regarding the performance of a licensing duty under licensing statutes. The regulation embodies the fees which capture the cost of providing the service an applicant or licensee requests. Therefore, the information requested in this item is not applicable.

**(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 2,027 persons will avail themselves of one or more of the enumerated services within a biennial period. Total cost savings to the regulated community for a biennial period would be \$18,605. There are no legal, accounting or consulting procedures required.

**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 are not 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 Department and the Board will incur no costs to implement this regulation.

## 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
<b>SAVINGS:</b>						
<b>Regulated</b>	\$27,575	\$27,575	\$27,575	\$27,575	\$27,575	\$27,575
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated</b>	\$8,970	\$8,970	\$8,970	\$8,970	\$8,970	8,970
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
<b>Regulated</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>						

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

The cost estimates are based upon the number of persons who will avail themselves of the specified service in a fiscal year multiplied by the savings or additional cost to the applicant for the service.

a. Osteopathic license application	\$40(savings)	x	600	=	\$24,000 (savings)
b. Osteopathic camp license	5(cost)	x	1	=	5 (cost)
c. Temporary or graduate training license	5(cost)	x	550	=	2,750 (cost)
d. Application for physician assistant	55(savings)	x	65	=	3,575 (savings)
e. Application for supervising physician	15(cost)	x	10	=	150 (cost)
f. Verification of license or permit	5(cost)	x	600	=	3,000 (cost)
g. Certification of scores or hours	10(cost)	x	10	=	100 (cost)
h. Application for radiology exams	25(cost)	x	10	=	250 (cost)
i. Application for acupuncturist	15(cost)	x	4	=	60 (cost)
j. Application for acupuncturist supervisor	15(cost)	x	2	=	30 (cost)
k. Application for respiratory care temporary permit	15(cost)	x	100	=	1,500 (cost)
l. Application for respiratory care initial license	15(cost)	x	75	=	1,125 (cost)

## Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY
See attached fee report forms				

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

The amendments will assure that the costs of providing the specified services to certain applicants and licensee 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.**

Nonregulatory alternatives were not considered because the Board's enabling statute requires the Board to promulgate regulations to establish fees or changes to the fees.

**(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 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?**

Based on the Board's information and belief, the fees are generally consistent with the fees of other states. The fees for these services will not place Pennsylvania at a disadvantage with other states.

**(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.**

The Board does not anticipate any further hearings or informational meetings in regard to this rulemaking. Both proposed and final rulemaking were thoroughly discussed at regular meetings of the Board.

## 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.

**(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 does not perceive that any subset of its applicants or licensees who have any particular needs which need to be addressed in these regulations.

**(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 regulations will be effective on publication in the Pennsylvania Bulletin.

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

The regulations will be subject to ongoing review during the course of the Board's enforcement of its laws and regulations.



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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

Bureau of Professional and Occupational Affairs  
(AGENCY)

BY: *Gregory E. Douglas*

DOCUMENT/FISCAL NOTE NO. 16A-5310

DATE OF APPROVAL

DATE OF ADOPTION: \_\_\_\_\_

10/27/99  
DATE OF APPROVAL

BY: *Daniel D. Dowd, Jr.*  
Daniel D. Dowd, Jr., D.D.

(Deputy General Counsel  
(Chief Counsel,  
Independent Agency  
(Strike-inapplicable  
title)

TITLE: Chairman  
(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.

NOTICE OF FINAL RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
49 PA. CODE, CHAPTER 251  
STATE BOARD OF OSTEOPATHIC MEDICINE  
APPLICATION FEES

**(8) Briefly explain the regulation in clear and nontechnical language. (Continued from Page 1)**

for supervising physician, verification of any license or permit, certification of any license, grades, or hours, examination in radiography, examination in nuclear medicine technology, examination in radiation therapy technology, limited examination in radiography--thorax and extremities, limited examination in radiography--skull and sinuses, application for acupuncturist registration, application for acupuncturist supervisor, respiratory care temporary permit, and respiratory care initial license application. The regulation adds a fee for the application for radiology examinations and deletes the fee for study materials for ARRT limited examination in radiography.

**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

(Pa.B. Doc. No. 99-501. 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.

# STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11]

## Continuing Education Program Sponsors

Under Executive Order 1996-1 (relating to regulatory review and promulgation), the State Board of Accountancy is soliciting preliminary input, prior to publication of proposed rulemaking, on draft amendments to its regulations relating to continuing education program sponsors.

The draft amendments would set forth new requirements for program sponsors effective May 1, 2000. The new requirements would enhance program sponsor standards and responsibilities, provide for onsite and offsite review of program sponsor offerings, clarify the grounds for withdrawal of program sponsor approval and establish fees for initial program sponsor approval and biennial renewal of approval. Currently approved program sponsors desiring to offer continuing education to certified public accountants and public accountants after April 30, 2000, would be required to apply for re-approval under the new requirements.

Currently approved and prospective program sponsors are invited to submit preliminary input on the draft amendments no later than April 30, 1999. Copies of the draft amendments may be obtained by writing or telephoning Steven Wennberg, Counsel, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649 (717) 783-7200 and fax (717) 787-0251.

THOMAS J. BAUMGARTNER, CPA,  
Chairperson

[Pa.B. Doc. No. 99-500. Filed for public inspection March 26, 1999, 9:00 a.m.]

# STATE BOARD OF OSTEOPATHIC MEDICINE

[49 PA. CODE CH. 25]

## Application Fees

The State Board of Osteopathic Medicine (Board) proposes to amend §§ 25.231 and 25.503 (relating to schedule of fees; and fees) by revising those fees which are not related to license renewals but rather to applications and specific services so as to accurately reflect the cost of processing applications and providing services. The proposed changes are set forth in Annex A.

### A. Effective Date

The proposed amendments will take effect when they are published as final rulemaking in the *Pennsylvania Bulletin*.

### B. Statutory Authority

Section 13.1(a) of the Osteopathic Medical Practice Act (act) (63 P.S. § 271.13a(a)), requires the Board to establish fees by regulation. The same provision requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

### C. Background and Purpose

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures. General operating expenses of the Board are funded through biennial license renewal fees which are paid by all licensees. Expenses of the Board which are related to processing individual applications or providing certain services directly to individual licensees or applicants are excluded from general operating revenues. These expenses are funded through fees which are based on the cost of providing the service. The fee is charged to the person requesting the service. These application and service fees are the focus of this proposed rulemaking.

A recent systems audit of the operations of this and other boards within the Bureau of Professional and Occupational Affairs analyzed the fees for services to licensees and applicants to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based on the following formula:

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

The analysis determined that the current application and service fees did not accurately reflect the actual cost of processing the following: application for osteopathic license; application for short-term camp license for an osteopathic physician; temporary training license or graduate training certificate for osteopathic physician; application for physician assistant certificate; application for registration as supervising physician; uncertified verification of license or permit; certification of license, examination grades or hours; application for registration as an acupuncturist; application for registration as an acupuncturist supervisor; temporary permit for respiratory care practitioner; initial license application for respiratory care practitioner; and fees for American Registry of Radiologic Technologists examinations.

Fees for most of these services were established in 1990. The fee for application for osteopathic license was established in January, 1989. The fees regarding acupuncturists were established in January, 1994. The fees for application for respiratory care practitioner and for a temporary permit for respiratory care practitioner were established in November, 1996. In some cases the fees exceeded actual cost, but in most, the fees fell short of the cost to provide the service.

Fees for the services identified in this proposal would be adjusted to allocate costs to those who use the service or submit the application.

The Board proposes a new fee of \$25 to cover the cost of processing applications for the Radiography, Nuclear Medicine Technology, Radiation Therapy Technology, limited Examination in Radiography—Thorax and extremities and limited examination in Radiography—skull and sinuses. The Board had previously charged a fee for each examination which covered the cost of both processing the application and the examination itself. The examination fee is now paid to the examination contractor and covers only the cost of the examination, not the Board's cost in processing the application. The application fee now covers the cost of processing the application.

The Board also proposes to delete from its regulations the fee for Study Materials for ARRT Limited Examination in Radiography. As a convenience to applicants taking the limited radiography examination, the Board

makes available study materials for applicants. Applicants are not required to purchase the materials either by the Board or any other entity. The Board is not required to provide the materials. The Board purchases the materials from the publisher and passes the materials on to those applicants who wish to obtain them. The Board improvidently implemented this optional service as a fee set by regulation. The publishers have changed the price of the materials several times since the implementation of the fee. The publisher does not give notice of its intention to change price. It is impractical for the Board to attempt to maintain a fee for this completely optional service. At the present time the publisher charges \$27 for the materials. The Board loses money every time it provides the materials because the fee is fixed at \$21. The Board proposes to delete the fee so that the materials could be provided at actual cost.

The fee increases have resulted from increases in staff costs and administrative overhead. The significant decreases in the costs of the application for unrestricted license to practice as an osteopathic physician and the application for physician assistant result from the processing of routine applications by Board staff. The Board had previously reviewed all physician and physician assistant applications. The Board now reviews only those physician and physician assistant applications which appear to contain problems or discrepancies.

**D. Compliance with Executive Order 1996-1**

In accordance with the requirements of Executive Order 1996-1 (February 1, 1996), in drafting and promulgating the proposed amendments the Board considered the proposed amendments as both required by law and the least restrictive means of covering the costs of 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 amendments will not impose 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 the 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 of

objections prior to final publication of the regulation by the agency, the General Assembly and the Governor.

**H. Public Comment**

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Gina Bittner, Administrative Assistant, State Board of Osteopathic Medicine, P. O. Box 2 Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-5310 (Application Fees) when submitting comments.

SILVIA M. FERRETTI, D.C.  
*Chairperson*

**Fiscal Note:** 16A-5310. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE**

**Subchapter F. FEES**

**§ 25.231. Schedule of fees.**

An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

Application for unrestricted license to practice as osteopathic physician—original reciprocal, boundary or by endorsement . . . . .	\$[ 85 ]45
Application for short-term camp license as osteopathic physician . . . . .	\$[ 25 ]30
* * * * *	
Temporary training license or graduate training certificate . . . . .	\$[ 25 ]30
* * * * *	
Application for physician assistant certificate . . . . .	\$[ 85 ]30
Application for supervising physician . . . . .	\$[ 80 ]95
Uncertified verification of [ licensure ] any license or permit . . . . .	\$[ 10 ]15
Certification of [ licensure ] any license, examination grades or hours . . . . .	\$[ 15 ]25
* * * * *	
Application for radiology (ARRT) examinations . . . . .	\$25
ARRT Examination in Radiography . . . . .	\$[ 30 ]20
ARRT Examination in Nuclear Medicine Technology . . . . .	\$[ 30 ]20
ARRT Examination in Radiation Therapy Technology . . . . .	\$20
ARRT Limited Examination in Radiography—Thorax and Extremities . . . . .	\$[ 35 ]25
ARRT Limited Examination in Radiography—Skull and Sinuses . . . . .	\$[ 35 ]25
[ Study Materials for ARRT Limited Examination in Radiography . . . . .	\$21 ]
Application for acupuncturist registration . . . . .	\$[ 15 ]30
* * * * *	
Application for acupuncturist supervisor registration . . . . .	\$[ 15 ]30

MARIO J. CIVERA, JR., MEMBER  
HOUSE POST OFFICE BOX 202020  
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*House of Representatives*  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

COMMITTEES

PROFESSIONAL LICENSURE,  
MAJORITY CHAIRMAN  
LIQUOR CONTROL  
FIREFIGHTERS' CAUCUS,  
COCHAIRMAN EMERITUS

May 12, 1999

A handwritten signature in black ink, appearing to be "F. C. H.", with a diagonal line extending from the bottom right of the signature.

John R. McGinley, Jr., Chairman  
Independent Regulatory Review Commission  
14th Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

Dear Chairman McGinley:

Please be advised that on May 11, 1999, the House Professional Licensure Committee held a meeting to review Regulation 16A-5310, which was submitted by the State Board of Osteopathic Medicine as proposed rulemaking. The Committee voted to take no formal action until final-form regulations are promulgated. However, the Committee submits the following comments:

1. The Committee is requesting additional information as to the category of "certification of any license, examination grades or hours." The Committee is questioning under what circumstances the Board would "certify" an examination score or hours. In the fee report form, the explanations as to what functions the Board staff performs for certification and verification are identical. The Committee requests an explanation as to the distinction between these two categories and what accounts for the differential in fees.
2. The fee report forms list a total estimated cost for each service based on a formula of staff time expended plus average administrative overhead. However, in all but a few cases, the proposed fee to be charged is rounded up to the nearest five dollar increment. The Committee is requesting an explanation as to why the proposed fees are rounded up, and are not the actual cost of services as estimated by the Board.
3. In response to Question 25 of the Regulatory Analysis Form, the Board states that the proposed fees are generally consistent with the fees of other states, and will not place Pennsylvania at a disadvantage with other states. The Committee is requesting more specific information as to how the proposed fees actually compare with other states.

**COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION**

**ON**

**STATE BOARD OF OSTEOPATHIC MEDICINE REGULATION NO. 16A-5310**

**APPLICATION FEES**

**MAY 27, 1999**

We have reviewed this proposed regulation from the State Board of Osteopathic Medicine (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 and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

**Sections 25.231. Schedule of Fees and 25.503. Fees. - Fiscal impact 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. According to staff at the Department of State and its Bureau of Professional and Occupational Affairs (BPOA), the allocated share of overhead cost for each fee category is calculated by dividing total overhead costs by the number of active licensees. This methodology for overhead cost allocation is not unreasonable and has been consistently applied. On the other hand, the staff cost allocations are based on estimates of the actual time BPOA staff spends performing the tasks related to each fee.

For overhead cost allocations, there appears to be no relationship to the services covered by the fees or frequency of fee payments. Therefore, there is no indication that the fees will recover actual or projected overhead costs. In addition, the allocated costs are based on past expenditures rather than estimates or projections of future expenditures. Hence, there is no certainty that the fees' "projected revenues will meet or exceed projected expenditures" pursuant to Section 13.1(a) of the Osteopathic Medical Practice Act (63 P.S. § 271.13a(a)).

We question the use of a constant overhead cost allocation that appears to be unrelated to the actual costs of activities covered by different fees. Even though this process was used to determine other fees, why should BPOA maintain this approach? The Board and BPOA should specifically identify the overhead costs, or portion of the total overhead, to be recouped by these fees, and review their methodology for allocating these overhead costs. Is it the Board's goal to allocate all overhead costs by category to each fee? If so, we do not believe the current allocation formula gives the desired result.

*Inconsistency in fee title*

In the Regulatory Analysis Form, question eight states that "...certification of any license, grades or hours..." fee will be adjusted. In the Fee Report Form, the same fee is entitled, "Certification of Scores or Hours." And in the Proposed Rulemaking, the fee is entitled, "Certification of any License, Examination Grades, or Hours." This inconsistency needs to be clarified in the preamble to the Board's final-form rulemaking.

*Similarity in tasks*

The Board's staff time and administrative costs for the Verification of License or Temporary Permit as outlined in the Fee Report Form are 0.08/hour and \$1.62, respectively. The staff time and administrative costs for the Certification of License, Scores, or Hours outlined in the Fee Report Form are 0.75/hour and \$15.23, respectively. Yet the administrative functions the Board staff performs for both are identical. The Board should explain the cost and time differentials when it submits its final-form rulemaking.



## FEE REPORT FORM

Agency: State - BPOA Date: 12/09/98  
Contact: C. Michael Weaver  
Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

License Application Fee = \$45.00  
Estimated Biennial Revenue: \$ 27,000 (600 applications x \$45.00)

### Fee Description:

The fee will be charged to each applicant for licensure as an Osteopathic Physician and Surgeon.

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Osteopathic Medicine to review and process an application for licensure as an Osteopathic Physician and Surgeon and (2) defray a portion of the Board's administrative overhead.

### Fee-Related Activities and Costs:

Board Staff- review application:	(.75/hr)	15.23
Averaged Cost - board review		11.10
Administrative Overhead:		<u>16.79</u>
	Total Estimated Cost:	\$43.12
	Proposed Fee:	\$45.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$45.00 be established to review an application for licensure as an Osteopathic Physician and Surgeon.

**Staff receives application, reviews for completeness, contacts applicant to request any missing information. License is issued through the computer if all requirements are met; discrepancy notice is sent if applicant does not meet qualifications.**

**Board meeting time may be necessary as a result of "yes" answers to legal questions on the license application. The cost of the time for board review has been averaged over the total number of applications anticipated in a biennial cycle.**

## FEE REPORT FORM

Agency: State - BPOA

Date: November 17, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

**Short Term License Application (Camp Physician): \$30.00**

Estimated Biennial Revenue: \$30.00 (1 application x \$30.00)

### Fee Description:

The fee will be charged to every applicant for short term licensure (camp physician).

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Osteopathic Medicine to review and process an application for short term (camp physician) license and (2) defray a portion of the Board's administrative overhead.

### Fee-Related Activities and Costs:

Staff time- review and process application (.50/ hr)	10.15
Administrative Overhead:	<u>16.79</u>
Total Estimated Cost:	\$26.94
Proposed Fee:	\$30.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to review an application for short term licensure (camp physician).

**Board Staff:** Reviews application for completeness, verifies that supporting documents are attached, contacts candidate to request any missing information. Verifies current licensure in good standing in another state, issues document indicating approval or issues rejection notice.

## FEE REPORT FORM

Agency: State - BPOA

Date: November 16, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

**Graduate Training License - Initial Application: \$30.00**

Estimated Biennial Revenue: \$16,500.00 (550 applications x \$30.00)

### Fee Description:

The fee will be charged to every applicant for an initial graduate training license.

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Osteopathic Medicine to review and process an initial graduate training license application and (2) defray a portion of the Board's administrative overhead.

### Fee-Related Activities and Costs:

Staff time- review and process application	(.50/ hr)	10.15
Administrative Overhead:		<u>16.79</u>
	Total Estimated Cost:	\$26.94
	Proposed Fee:	\$30.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to review an application for a graduate training license.

**Board Staff:** Reviews application for completeness, verifies that supporting documents are attached, contacts candidate to request any missing information, notifies applicant by either issuing registration through computer or rejection notice.

# FEE REPORT FORM

Agency: State - BPOA

Date: November 16, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

## Fee Title, Rate and Estimated Collections:

**Physician Assistant Certification Application: \$30.00**

Estimated Biennial Revenue: \$1,950.00 (65 applications x \$30.00)

## Fee Description:

The fee will be charged to every applicant for certification as a physician assistant.

## Fee Objective:

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

## Fee-Related Activities and Costs:

Staff time- review and process application	(.50/ hr)	10.15
Administrative Overhead:		<u>16.79</u>
	Total Estimated Cost:	\$26.94
	Proposed Fee:	\$30.00

## Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to review an application for physician assistant certification.

**Page 2 - Application-Physician Assistant Certification 11/16/98**

**Board Staff:** Reviews application for completeness, verifies that supporting documents are attached, contacts candidate to request any missing information, notifies applicant by either issuing registration through computer or rejection notice.



## FEE REPORT FORM

Agency: State - BPOA

Date: November 16, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

Supervising Physician Application: \$95.00

Estimated Biennial Revenue: \$950.00 (10 applications x \$95.00)

### Fee Description:

The fee will be charged to every applicant for registration as a supervising physician.

### Fee Objective:

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

### Fee-Related Activities and Costs:

Staff time- review and process application	(.75/ hr)	15.23
Board Administrator - prepare for board meeting	(.25/ hr)	7.55
Board Meeting - review application/vote	(.17/ hr)	55.50
Administrative Overhead:		<u>16.79</u>
	Total Estimated Cost:	\$95.07
	Proposed Fee:	\$95.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$95.00 be established to review an application registration as a supervising physician.

**Board Staff:** Review application for completeness, verify that supporting documents are attached, contact candidate to request any missing information. Board administrator prepare & schedule for review by full board, notify applicant of board decision either by issuing registration through computer or rejection notice. Board meeting - review qualifications and educational background, vote to grant or deny registration.

## FEE REPORT FORM

Agency: State - BPOA

Date 11/16/98

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

#### Verification of License or Temporary Permit: \$15.00

Estimated Biennial Revenue: \$9,000.00 (600 verifications x \$15.00)

### Fee Description:

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

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Osteopathic Medicine 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 or temporary permit.

**Page 2      Verification of License or Temp. Permit    November 16, 1998**

**Board Staff: Reviews request for verification, researches computer, microfilm or other 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

(Corrected) Date: 08/12/99

Contact: David Williams

Phone No. 783-7194

## Fee Title, Rate and Estimated Collections:

**Certification of License, Exam Grades or Hours: \$ 25.00**

Estimated Biennial Revenue: \$250.00 (10 certifications x \$25.00)

## Fee Description:

The fee will be charged to every applicant who requests a certification.

## Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Osteopathic Medicine 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 processing a request for certification.

**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: November 16, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

## Fee Title, Rate and Estimated Collections:

**Application Fee for Radiology(ARRT) Examination: \$25.00**

Estimated Biennial Revenue: \$250.00 (10 applications x \$25.00)

## Fee Description:

The fee will be charged to every applicant for the American Registry of Radiologic Technologists Examination.

## Fee Objective:

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

## Fee-Related Activities and Costs:

Staff time- review and process examination application (.25 hr)	5.08
Averaged Administrative Ovhd:	<u>17.24</u>
Total Estimated Cost:	\$22.32
Proposed Fee:	\$25.00

## Analysis, Comment, and Recommendation:

It is recommended that a fee of \$25.00 be established to review an application for examination/certification to perform radiological procedures.

**Board Staff:** Reviews application for completeness, verifies that supporting documents are attached, contacts candidate to request any missing information. Processes application either by forwarding application and examination fee on to American Registry of Radiologic Technologists to be scheduled for exam or preparing discrepancy notice. The administrative overhead charge has been averaged for the boards offering the radiology examination since the application processing and approval notification are similar.



## FEE REPORT FORM

Agency: State - BPOA

Date: December 18, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

Radiology or Nuclear Medicine Technology or Radiation Therapy Technology  
Examination: = \$20.00 (each examination)  
Estimated Biennial Revenue: \$0 (fees submitted directly to professional testing  
organization).

### Fee Description:

The fee will be charged to any person applying for the examination to perform radiologic procedures under the direct supervision of an Osteopathic Physician. The fee is specifically for the Radiology or Nuclear Medicine Technology or Radiation Therapy Technology examinations offered by the American Registry of Radiologic Technologist (ARRT).

### Fee Objective:

The fee should defray the contracted cost of the ARRT (American Registry of Radiologic Technologists) examinations described above.

### Fee-Related Activities and Costs:

Actual, contractual cost of the Radiology or Nuclear Medicine Technology or Radiation Therapy Technology examination and administration:	\$20.00
Total Estimated Cost:	\$20.00
Proposed Fee:	\$20.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$20.00 be established for the Radiology or Nuclear Medicine Technology or Radiation Therapy Technology examination offered by the American Registry of Radiologic Technologist (ARRT).

# FEE REPORT FORM

Agency: State - BPOA

Date: December 18, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

## Fee Title, Rate and Estimated Collections:

Limited Scope of Practice in Radiology Examinations: = \$25.00 (each examination)  
(Chest/Extremities or Skull/Sinuses or Podiatric or Spine)

Estimated Biennial Revenue: \$0 (fees submitted directly to professional testing organization).

## Fee Description:

The fee will be charged to any person applying for the examination to perform radiologic procedures under the direct supervision of an Osteopathic Physician. The fee is specifically for the Limited Scope of Practice in Radiology Examinations Chest/Extremities or Skull/Sinuses or Podiatric or Spine offered by the American Registry of Radiologic Technologist (ARRT).

## Fee Objective:

The fee should defray the contracted cost of the ARRT (American Registry of Radiologic Technologists) examinations described above.

## Fee-Related Activities and Costs:

Actual, contractual cost of the Limited Scope of Practice in Radiology examinations (Chest/Extremities, Skull/Sinuses, Podiatric or Spine) Technology examination and administration: \$25.00

Total Estimated Cost: \$25.00

Proposed Fee: \$25.00

## Analysis, Comment, and Recommendation:

It is recommended that a fee of \$25.00 be established for the Limited Scope of Practice in Radiology(Chest/Extremities or Skull/Sinuses or Podiatric or Spine) examinations offered by the American Registry of Radiologic Technologist (ARRT).

## FEE REPORT FORM

Agency: State - BPOA

Date: November 16, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

Acupuncturist Registration Application: \$30.00

Estimated Biennial Revenue: \$120.00 (4 applications x \$30.00)

### Fee Description:

The fee will be charged to every applicant for registration as an acupuncturist.

### Fee Objective:

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

### Fee-Related Activities and Costs:

Staff time- review and process application	(.50/ hr)	10.15
Administrative Overhead:		<u>16.79</u>
	Total Estimated Cost:	\$26.94
	Proposed Fee:	\$30.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to review an application registration as an acupuncturist.

**Page 2 - Acupuncturist Registration Application 11/16/98**

**Board Staff:** Review application for completeness, verify that supporting documents are attached, contact candidate to request any missing information. Notify applicant either by issuing registration through the computer or issuing a rejection notice.

# FEE REPORT FORM

**Agency:** State - BPOA

**Date:** November 16, 1998

**Contact:** C. Michael Weaver

**Phone No.** 783-7194

## Fee Title, Rate and Estimated Collections:

**Acupuncturist Supervisor Registration Application:** \$30.00

Estimated Biennial Revenue: \$60.00

(2 applications x \$30.00)

## Fee Description:

The fee will be charged to every applicant for registration as an acupuncturist supervisor.

## Fee Objective:

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

## Fee-Related Activities and Costs:

Staff time- review and process application	(.50/ hr)	10.15
Administrative Overhead:		<u>16.79</u>
	Total Estimated Cost:	\$26.94
	Proposed Fee:	\$30.00

## Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to review an application registration as an acupuncturist supervisor.

**Page 2 - Acupuncturist Supervisor Registration Application 11/16/98**

**Board Staff:** Review application for completeness, verify that supporting documents are attached, contact candidate to request any missing information. Notify applicant either by issuing registration through the computer or issuing a rejection notice.

## FEE REPORT FORM

Agency: State - BPOA

Date: November 16, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

**Respiratory Care Temporary Permit Application: \$30.00**  
Estimated Biennial Revenue: \$3,000.00 (100 applications x \$30.00)

### Fee Description:

The fee will be charged to every applicant for a respiratory care practitioner temporary permit.

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Osteopathic Medicine to review and process an application for a respiratory care practitioner temporary permit and (2) defray a portion of the Board's administrative overhead.

### Fee-Related Activities and Costs:

Staff time- review and process application	(.50/ hr)	10.15
Averaged Administrative Overhead:		<u>15.39</u>
	Total Estimated Cost:	\$25.54
	Proposed Fee:	\$30.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to review a respiratory care practitioner temporary permit application.

**Board Staff:** Review application for completeness, verify that supporting documents are attached, contact candidate to request any missing information. Notify applicant either by issuing registration through the computer or issuing a rejection notice.



## FEE REPORT FORM

Agency: State - BPOA

Date: November 16, 1998

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

**Respiratory Care Practitioner Initial License Application: \$30.00**

Estimated Biennial Revenue: \$2,250.00 (75 applications x \$30.00)

### Fee Description:

The fee will be charged to every applicant for licensure as a respiratory care practitioner.

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Osteopathic Medicine to review and process an application for licensure as a respiratory care practitioner and (2) defray a portion of the Board's administrative overhead.

### Fee-Related Activities and Costs:

Staff time- review and process application	(.50/ hr)	10.15
Averaged Administrative Overhead:		<u>15.39</u>
Total Estimated Cost:		\$25.54
Proposed Fee:		\$30.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to review a respiratory care practitioner initial license application.

**Board Staff:** Review application for completeness, verify that supporting documents are attached, contact candidate to request any missing information. Notify applicant either by issuing registration through the computer or issuing a rejection notice. The administrative overhead charge is an average of the Medical and Osteopathic Board's overhead since the processing is identical for both boards.

Commonwealth of Pennsylvania  
Department of State

DATE: September 8, 1999

SUBJECT: Significant Legal and Policy Issues  
Notice of Final Rulemaking  
State Board of Osteopathic Medicine  
Application Fees (16A-5310)

TO: Gregory E. Dunlap, Deputy General Counsel  
Office of General

FROM: Herbert Abramson, Counsel *Ha*  
State Board of Osteopathic Medicine

Attached for your review is a notice of final rulemaking of the State Board of Osteopathic Medicine pertaining to application fees and fees for services provided to individual practitioners. The new fees will more accurately reflect the costs of processing applications and providing services. This rulemaking does not pertain to license renewal fees. The changes do not raise any significant legal or policy issues.

I certify that I have reviewed this final rulemaking for form and legality, that I have discussed any legal and policy issues with the administrative officers responsible for the program, and that all information contained in the preamble and annex is correct and accurate.

attachment

The State Board of Osteopathic Medicine (Board) amends 49 Pa. Code §§25.231 and 25.503 (pertaining to fees) by revising those fees which are not related to license renewals but rather to applications and specific services so as to accurately reflect the cost of processing applications and providing services. The changes are set forth in Annex A.

A. Effective date.

The amendments take effect upon publication in the Pennsylvania Bulletin.

B. Statutory Authority

Section 13.1(a) of the Osteopathic Medical Practice Act (Act), Act of October 5, 1978, P.L. 1109, as amended, 63 P.S. §271.13a(a), requires the Board to establish fees by regulation. The same provision requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

C. Background and Purpose.

Expenses of the Board which are related to processing individual applications or providing certain services directly to individual licensees or applicants are funded through fees which are based on the cost of providing the service. The fee is charged to the person requesting the service.

A recent systems audit within the Bureau of Professional and Occupational Affairs determined that the application and service fees did not accurately reflect the actual cost of processing the applications and performing the services. A detailed explanation of the background of these fees as well as a description of the fees was published at 29 Pa.B. 1613 (March 27, 1999).

D. Summary of Comments and Responses on Proposed Rulemaking

Following publication of proposed rulemaking at 29 Pa.B. 1613 (March 27, 1999), the Board did not receive any comments from the general public. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The following is the Board's response to those 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 a license in another state based upon a license in Pennsylvania which had been issued on the basis of a uniform national or regional examination which was taken in Pennsylvania. Generally the state of the original license is the only source of the score of the licensee, as testing agencies do not maintain this information. The licensing laws of many states include provisions that licensure by reciprocity or endorsement based on a license 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 license 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 a license 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 letter is printed from the Bureau's central computer records and sent to the Board staff responsible for handling the licensees application. The letter is 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, or 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 Board and the Bureau thoroughly examine its cost allocation methodology for administrative overhead and itemize the overhead costs to be recouped by these fees. IRRC commented that although the methodology is reasonable, there is no indication that the fees will recover the actual overhead costs because there is no relationship to the service covered by the fees and because the costs are based upon past expenditures rather than projected expenditures. IRRC expressed the view that there is no certainty that the projected revenues of the new fee will meet or exceed projected expenditures as required under the Boards' enabling statutes.

As IRRC noted the adoption of a Bureau-wide averaged overhead for similar services was made when the fees were established in 1988 rulemaking. This methodology was approved by the House and Senate oversight Committees as well as IRRC. Legislative reviewers expressed a preference to "cost out" both user fees and operating revenue fees based upon actual, documented and verifiable factors as opposed to projected expenses or budgets that may never materialize. Thus, the Bureau has recommended and Boards have adopted fee schedules which are based upon actual expenditures. Legislative reviewers at that time felt that a procedure for "rounding up" actual fees would be a sufficient cushion to provide any necessary surplus in non-biennial revenue years and prior to the biennial reconciliation required under Board statutes. The Bureau and the Boards have used this methodology over five biennial reconciliation periods and have discovered this methodology results

in relatively stable and reasonable fees.

The Bureau did consider a suggestion that the Bureau look into other methods of distributing administrative overhead expenses. Results obtained by applying a time factor were compared with the current methodology. The current method recouped 22 per cent of the administrative overhead expenses versus 25 per cent using a ratio based on a time factor. Board staff time varies between 23 and 28 per cent to process a request for services for which user fees are charged. When this time factor calculation is combined with the licensee population the result is wildly varying costs for different licensees who are receiving the same services. For example, using that method to produce a verification letter would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Based upon this analysis the Boards concurred in the Bureau's recommendation that the use of a Bureau-wide average administrative overhead charge of \$9.76 applied to verifications and certifications represented a fair allocation because the work product is essentially the same and because documented experience supports the charge.

IRRC requested that the Bureau and the Boards (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 Boards enabling statutes.

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 Boards note 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 Boards have not made changes in the method by which it allocates administrative expenditures and the resulting fees will remain as proposed.

#### Other Comments

IRRC called attention to an apparent inconsistency in the text of the proposed rulemaking and the fee report, the document generated by the Bureau in support of the fee changes. The proposed rulemaking referred to a fee for certification of any license, examination grades, or hours. The fee report form referred only to a fee for certification of scores or hours. The proposed rulemaking was correct. The omission of the word "license" from the fee report was an oversight. A revised fee report has been prepared.

The HPLC requested information on how the proposed rulemaking would compare with regulations of other states and whether Pennsylvania would be placed at a competitive disadvantage as a result of this rulemaking. The fees for applications for a physician license and for application for physician assistant certificate are being reduced. Information received from the Ohio, Maryland, and New Jersey boards indicate the application fee for a physician license in those states is \$335, \$450, and \$325, respectively, significantly above the current and proposed fees. New York charges \$10 for verifying a license, but \$50 for certifying exam scores. Ohio does not charge a fee for verifying a license, but charges a fee of \$50 if the document must be signed by the executive director of the Board. The Board does not believe

that Pennsylvania will be put at a competitive disadvantage by this rulemaking or that this rulemaking will have any impact on a practitioner's decision to practice in Pennsylvania.

#### E. 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 not impose 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 5.1(a) of the Regulatory Review Act, Act of June 30, 1989, P.L. 73, No. 19 (71 P.S. §§745.1-745.15), the Board submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 1613, to the Independent Regulatory Review Commission and to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing these final-form regulations the Board has considered the comments received from IRRC, the Committees, and the public.

These final-form regulations were (deemed) approved by the House and Senate Committee on *December 7, 1999*. IRRC met on *December 7, 1999*, and (deemed) approved the amendments in accordance with section 5(e) of the Regulatory Review Act.

#### H. Contact Person

Further information may be obtained by contacting Gina Bittner, Administrative Assistant, State Board of Osteopathic

Medicine, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, (717) 783-4858.

## I. 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) 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) These amendments do not enlarge the purpose of proposed rulemaking published at 29 Pa.B. 1613.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this preamble.

## J. Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 25, are amended by amending §§ 25.231 and 25.503 to read as set forth in Annex A.

(b) 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.

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

(d) This order shall take effect on publication in the Pennsylvania Bulletin.

DANIEL D. DOWD, JR., D.O.,  
Chairman

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE

Subchapter F. FEES

§25.231. Schedule of fees.

An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

Application for unrestricted license to  
practice as osteopathic physician--original  
reciprocal, boundary or by endorsement .....\$[85]45  
Application for short-term camp license as  
osteopathic physician .....\$[25]30

\* \* \* \* \*

Temporary training license or graduate training  
certificate .....\$[25]30

\* \* \* \* \*

Application for physician assistant certificate...\$[85]30  
Application for supervising physician.....\$[80]95  
Uncertified verification of any licens[ur]e  
or permit.....\$[10]15  
Certification of any licens[ur]e, [or]  
examination grades, or hours.....\$[15]25

\* \* \* \* \*

Application for Radiology (ARRT) Examinations.....\$25  
ARRT Examination in Radiography.....\$[30]20  
ARRT Examination in Nuclear Medicine Technology...\$[30]20  
ARRT Examination in Radiation Therapy Technology.....\$20  
ARRT Limited Examination in Radiography--Thorax  
and Extremities.....\$[35]25  
ARRT Limited Examination in Radiography--Skull  
and Sinuses.....\$[35]25  
[Study Materials for ARRT Limited Examination in  
Radiography.....\$21]

Application for acupuncturist registration.....\$[15]30

\* \* \* \* \*

Application for acupuncturist supervisor  
registration.....\$[15]30

**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
- (4) Reexamination.....\$60

\* \* \* \* \*



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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF OSTEOPATHIC MEDICINE

INDEPENDENT REGULATORY  
REVIEW COMMISSION

116 Pine Street, Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-4858

December 7, 1999

The Honorable John R. McGinley, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harrisstown 2  
333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Notice of Final Rulemaking of the State Board of Osteopathic  
Medicine pertaining to Application Fees (16A-5310)

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Osteopathic Medicine pertaining to application fees and fees for services provided to individual practitioners. The new fees will more accurately reflect the costs of processing applications and providing services. This rulemaking does not pertain to license renewal fees.

The Board stands ready to assist your Commission in its review.

Sincerely,

Daniel D. Dowd, Jr., D.O., Chairman  
State Board of Osteopathic Medicine

DDD/ALN:hmd

Enclosures

c: Steven V. Turner, Chief Counsel  
Department of State  
Dorothy Childress, Commissioner  
Bureau of Professional and Occupational Affairs  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Amy L. Nelson, Counsel  
State Board of Osteopathic Medicine  
State Board of Osteopathic Medicine

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

**RECEIVED**

**I.D. NUMBER:** 16A-5310  
**SUBJECT:** State Board of Osteopathic Medicine - Application Fees  
**AGENCY:** DEPARTMENT OF STATE

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INDEPENDENT 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
12/7/99	<i>Sammy Weaver</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
12-7-99	<i>Augustine</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
12-7-99	<i>Teri Eckert</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU