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

May 27, 1999

Silvia M. Ferretti, D.O., Chairman
State Board of Osteopathic Medicine
116 Pine Street
Harrisburg, PA 17105

Re: IRRC Regulation #16A-16A-5310 (#2018)
State Board of Osteopathic Medicine
Application Fees

Dear Chairman Ferretti:

Enclosed are our Comments on your proposed regulation #16A-5310. They are also available on our website at <http://www.irrc.state.pa.us>.

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

If you want to meet with us to discuss these Comments, please contact Mary Lou Harris at 772-1284 or Chris Markham at 783-5417.

Sincerely,


Robert E. Nyce
Executive Director

Enclosure

REN:wbg

cc: Herbert Abramson
Joyce McKeever
Dorothy Childress
Kim Pizzingrilli
Office of General Counsel
Office of Attorney General
Pete Tartline

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.