

Regulation Analysis Form

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REGULATORY
REVIEW COMMISSION

McGinley

IRRC Number:

2032

(1) Agency

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

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

16A-527

(3) Short Title

Application Fees

(4) PA Code Cite

49 Pa. Code §23.91

(5) Agency Contacts & Telephone Numbers

Primary Contact: Teresa Lazo-Miller, Counsel

State Board of Optometry (717) 783-7200

Secondary Contact: Joyce McKeever, Deputy Chief

Counsel, Department of State (717) 783-7200

(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 Optometry by revising fees for applications for certified copies of licenses for additional practice locations, approval of continuing education programs, verifications of licenses and certifications of licenses or examination scores. The new fees are needed because the current fees established in 1988 no longer reflect the cost of providing the enumerated services.

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

The regulatory amendments are adopted under Sections 3(b)(14), 5(b) and 9 of the Optometric Practice and Licensure Act, Act of June 6, 1980, P.L. 197, as amended, 63 P.S. §§244.2(b)(14), 244.5(b) and 244.9.

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 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.)

Applicants for certified copies of licenses for additional practice locations, approval of continuing education programs, verifications of licensure and certification of licensure or scores will be required to pay the applicable fees. The Board estimates that approximately 1,800 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 1,800 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 \$69,050. However, only those requesting the services will be affected. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.

(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	FY +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:						
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated	\$34,525	\$34,525	\$34,525	\$34,525	\$34,525	\$34,525
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 (one-half biennium) period multiplied by the additional cost to the applicant for the service:

a) certified copy of license for each additional practice location	70	x	\$5	=	\$350
b) approval of continuing education program	750	x	\$45	=	\$33,750
c) verification of licensure	75	x	\$5	=	\$375
d) certification of licensure/examination scores	5	x	\$10	=	\$50

Total aggregate cost

\$34,525

Regulatory Analysis				
(20b) Provide the past three year expenditure history for programs affected by the regulation.				
N/A				
Program	FY -3	FY -2	FY -1	Current FY

(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.

(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?

It is difficult to compare the fees Pennsylvania proposes to charge for the services implicated in this proposal because some other states seem to include anticipated expenses for certification and verification of licensure in the license renewal fee. For example, surrounding states that do not charge a fee for the provision of the certification or verification service impose significantly higher license renewal fees than Pennsylvania. In comparing Pennsylvania's fees to those in surrounding states, it is important to recall that license renewal fees are borne by the entire licensed population, whereas fees for the provision of certification or verification of licensure are borne only by those licensees requesting the service. It appears that the proposed fees would not put Pennsylvania at a competitive disadvantage with other states. The following "table" compares the fees for renewal, calculated on a biennial basis ("BRF"), verification ("V"), certification ("C"), duplicate license ("L") and duplicate wall certificate ("WC") for Pennsylvania and surrounding states.

	<u>PA</u>	<u>DE</u>	<u>MD</u>	<u>NJ</u>	<u>NY</u>	<u>OH</u>	<u>WV</u>
BRF	135	119	500	210-460	140	220	30-200
V	15	10	0	40	20	0	0
C	25	10	0	40	20	0	25
L	20	10	10	25	10	10	15
WC	10	-	40	25	10	10	20

(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 reviews its regulatory proposals at regularly scheduled public meetings.

(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 is 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 in the *Pennsylvania Bulletin*.

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

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

FEE REPORT FORM

Agency: State - BPOA

Date: March 10, 1999

Contact: C. Michael Weaver

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Application for Additional Practice Location(s): \$20.00
Estimated Biennial Revenue: \$2,800 (140 applications x \$20.00)

Fee Description:

The fee will be charged to every applicant for approval of each additional practice location.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Optometry to review and process an application for approval of each additional practice location and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time-app prep & review	(0.25 hr)	5.08
Administrative Overhead:		<u>15.77</u>
Total Estimated Cost:		\$ 20.85
Proposed Fee:		\$ 20.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$20.00 be established to process an application for approval of each additional practice location.

Page 2: Application for Additional Practice Location(s) March 10, 1999

Board Staff: receives request from a licensee for approval to practice at a location other than the address of the main license, reviews application and supporting documents to be certain that all requirements are met, issues license through computer or discrepancy notice.

FEE REPORT FORM

Agency: State - BPOA

Date: March 10, 1999

Contact: C. Michael Weaver

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Application for Approval of Continuing Education Program: \$45.00

Estimated Biennial Revenue: \$67,500 (1,500 applications x \$45.00)

Fee Description:

The fee will be charged to every applicant for approval of a continuing education program.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Optometry to review and process an application for approval of a continuing education program and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time-app review	(0.50 hr.)	10.15
Board administrator: app. preparation	(0.25 hr.)	7.55
Board member review - avg. time to review	(1.00 hr.)	8.00
Administrative Overhead:		<u>15.77</u>
Total Estimated Cost:		\$ 41.47
Proposed Fee:		\$ 45.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$45.00 be established to process an application for approval of a continuing education program.

Page 2 App. for Approval of Continuing Education Program: March 10, 1999

Board Staff: receives request from a provider of continuing education requesting approval as a provider of courses/programs that licensees are required to complete as a condition of license renewal. Board administrator sends the application and supporting documents to a board member for evaluation of course content and recommendation to approve or deny. Following decision, applicant is notified of decision; if approved, program is entered into computer system.

FEE REPORT FORM

Agency: State - BPOA

Date: 03/10/99

Contact: C. Michael Weaver

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Verification of License: \$15.00

Estimated Biennial Revenue: \$2,250.00 (150 verifications x \$15.00)

Fee Description:

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

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Optometry 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.

Staff reviews request for verification, researches computer, microfilm or other files to retrieve pertinent information, issues letter of good standing via computer, affixes Bureau seal onto document, forwards as instructed by applicant.

FEE REPORT FORM

Agency: State - BPOA

Date: 03/10/99

Contact: C. Michael Weaver

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Certification of License and/or Scores: \$ 25.00

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

Fee Description:

The fee will be charged to every applicant who requests certification of license and/or scores.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Optometry 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: 9.76

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 license and/or scores.

Board Staff: Reviews request for certification of license, scores or hours; 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.

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

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LEGISLATIVE REGULATORY
REVIEW COMMISSION

2032

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Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

STATE BOARD OF OPTOMETRY
(AGENCY)

BY: [Signature]

DOCUMENT/FISCAL NOTE NO. 16A-527

DATE OF APPROVAL

DATE OF ADOPTION:

2/16/08
DATE OF APPROVAL

BY:

[Signature]
JAY E. TANNER, O.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.

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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
STATE BOARD OF OPTOMETRY
49 PA. CODE, CHAPTER 23
APPLICATION FEES

The State Board of Optometry (Board) adopts an amendment to 49 Pa. Code §23.91, Fees (relating to fees for services charged by the Board), as set forth in Annex A.

Notice of Proposed Rulemaking was published at 29 Pa. B. 2300 (May 1, 1999). Publication was followed by a 30-day public comment period during which the Board received no comments from the general public. 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.

On July 1, 1999, the Independent Regulatory Review Commission (IRRC) sent comments and suggestions to the Board.

Effective Date

The amendment will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The Board is authorized to set fees by regulation under Section 9 of the Optometric Practice and Licensure Act, Act of June 6, 1980, P.L. 197, as amended, 63 P.S. §422.9.

Response to IRRC Comment

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. Finally, the HPLC inquired whether the new fees would place Pennsylvania at a competitive disadvantage with surrounding states. After comparing the proposed fees with those in surrounding states, the Board determined the new fees would not place Pennsylvania at a competitive disadvantage. Details of the Board's analysis are in the Regulatory Analysis Form, which is available upon request.

Certification and Verification 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 of agency determines that the qualifications 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 he 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 for 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 or training in another state. A certification document contains information specific to the individual requestor. It may include dates or locations 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 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 charges 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.

Applications for Continuing Education Program Approval

The HPLC and IRRC questioned the Board's estimate of the number of applications by providers of continuing education programs for Board approval of those programs. The Board estimate of 1,500 program approvals for the biennial period was based on the experiences in prior biennial periods.

The HPLC and IRRC further questioned the process by which continuing education programs are approved and whether the approval fee is actually paid by providers or licensees. A provider wishing to obtain Board approval for a continuing education program must submit an application for program approval to the Board. After the applicant's information is entered into the Board's computer system, the application is sent to the Board's Continuing Education chairperson who reviews the application and approves or disapproves the course for continuing education credit. The application is then returned to the Board's administrative offices and the approval or disapproval entered into the Board's computer system. It is not uncommon for a

single provider to request approval for numerous continuing education programs. The fee would be paid by the provider for each program to offset the expenses involved in reviewing each program for which approval is sought.

Certified Copy of License For Each Additional Practice Location

No comments were received on the portion of the regulation that would increase the fee for receipt of a certified copy of the license for additional practice locations by five dollars (\$5.00), from the current charge of \$15.00 to \$20.00. This rate is comparable to the fee charged in surrounding states for the same service.

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.

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 (71 P.S. § 745.5(a)), the board submitted a copy of the Notice of Proposed Rulemaking, published at 28 Pa. B. 2927 (June 27, 1998), to the IRRC and to the Chairpersons of the HCPL and the SCP/PLC for review and comment.

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(c) of the Act.

Further Information

Individuals who need information about the regulation may contact Deb Smith, Administrative Assistant, State Board of Optometry, P.O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7155.

Findings

The State Board of Optometry finds:

- (1) That public notice of proposed rulemaking was given under sections 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§1201 and 1202, and the regulations promulgated under those sections 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 23 Pa. B. 2300 (May 1, 1999).
- (4) That this amendment is necessary and appropriate for administration and enforcement of the Board's authorizing statute.

The Board therefore **ORDERS**:

- (A) That the regulations of the State Board of Optometry, 49 Pa. Code Chapter 23, are amended to read as set forth in the attached Annex.
- (B) That the Board shall submit a copy of the Annex to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (C) That the Board shall certify this Order and Annex and shall deposit them with the Legislative Reference Bureau as required by law.

(D) That the regulations shall take effect immediately 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 23. STATE BOARD OF OPTOMETRY

FEES

§23.91 Fees.

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

License application	\$25
Certified copy of license for each additional practice location	[\$15] \$20
Certification of scores or licensure, or both	[\$15] \$25
Verification of licensure	[\$10] \$15
Biennial renewal - optometrist license	\$135
Biennial renewal - certified copy of license for each additional practice location	\$20
Application for certification to prescribe and administer pharmaceutical agents for therapeutic purposes	\$25
<u>Application for continuing education program approval</u>	<u>\$45</u>

proposed rulemaking. Please reference No. 16A-5112 (Fees), when submitting comments.

M. CHRISTINE ALICHNIE, Ph.D., RN,
Chairperson

Fiscal Note: 16A-5112. 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 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.5. Fees.

(a) The following fees are charged by the Board:

Licensure by endorsement.....	\$[25] 100
Temporary permit.....	\$[20] 35
Extension of temporary permit.....	\$60
Application for approval of new nursing program.....	\$[300] 475
Fee for review and challenge of RN exams.....	\$[220] 170
Application fee for out-of-State graduates...	\$[30] 100
* * * * *	
Reactivation of license (after 5 years or longer).....	\$[20] 50
Restoration after suspension or revocation ...	\$50
Certification of scores	\$25
Certification of license history	\$40
* * * * *	

Subchapter B. PRACTICAL NURSES

GENERAL PROVISIONS

§ 21.147. Fees.

(a) The following fees are charged by the Board:

Licensure by endorsement.....	\$[25] 100
Temporary permit.....	\$[20] 35
Extension of temporary permit.....	\$60
Application for approval of new nursing program.....	\$[300] 475
Fee for review and challenge of PN exams.....	\$[130] 170
Application fee for out-of-State graduates...	\$[30] 100
* * * * *	
Reactivation of license (after 5 years or longer).....	\$[20] 50
Restoration after suspension or revocation ...	\$50
Certification of scores	\$25

Certification of license history \$40

* * * * *

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

GENERAL PROVISIONS

§ 21.253. Fees.

The following fees are charged by the Board:

Certification..... \$[45] 100

* * * * *

(Pa.B. Doc. No. 99-705. Filed for public inspection April 30, 1999. 9:00 a.m.)

STATE BOARD OF OPTOMETRY

[49 PA. CODE CH. 23]

Application Fees

The State Board of Optometry (Board) proposes to amend § 23.91 (relating to fees) by revising certain application fees to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The proposed amendment is authorized under sections 3(b)(14), 5(b) and 9 of the Optometric Practice and Licensure Act (act) (63 P. S. §§ 244.3(b)(14), 244.5(b) and 244.9).

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:

number of minutes to perform the function

x

pay rate for the classification of
personnel performing the function

+

a proportionate share of administrative overhead.

The analysis determined that the fees for applications for certified copies of licenses for additional practice locations, verifications of licenses, and certifications of licenses or examination scores did not accurately reflect

the actual cost of providing the services. Fees for the Board in these categories have not been revised since 1988, and current fees fell short of the cost to provide the service. With respect to continuing education program approval, the analysis determined that, although the Board has been expending funds to approve programs not otherwise offered by providers identified in the Board's regulations as meeting the Board's requirements, no fee had been charged. Rather, the costs had been absorbed by biennial renewal fees paid by all licensees.

In this proposal, fees for the various 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.

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 amendment 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 amendment 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 amendment 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 April 19, 1999, the Board submitted a copy of this proposed amendment 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 amendment, 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 amendment, it will notify the Board within 10 days after the expiration 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 amendment, 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 amendment to Deborah L. Smith, Board Administrator, State Board of Optometry, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-527 (Application Fees), when submitting comments.

JAY B. TANNER, O.D.,
Chairperson

Fiscal Note: 16A-527. 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 23. STATE BOARD OF OPTOMETRY FEES

§ 23.91. Fees.

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

	* * * * *
Certified copy of license for each additional practice location	\$[15] 20
Certification of scores or licensure, or both .	\$[15] 25
Verification of licensure	\$[10] 15
	* * * * *
Application for continuing education program approval	\$45

[Pa.B. Doc. No. 99-706. Filed for public inspection April 30, 1999, 9:00 a.m.]



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

**LEGAL OFFICE
COUNSEL DIVISION
(717) 783-7200
Fax: (717) 787-0251**

**116 PINE STREET
P.O. BOX 2649
HARRISBURG, PA
17105-2649**

March 8, 2000

The Honorable John R. McGinley, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17120

**RE: Final Regulations of the State Board of Optometry
Pertaining to Verification/Certification Fees (16A-527)**

Dear Chairman McGinley:

Enclosed is a copy of a regulation of the State Board of Optometry.

The State Board of Optometry, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jay B. Tanner".

Jay B. Tanner, O.D., Chairman
State Board of Optometry

JBT:TLM:eco

c: John T. Henderson, Jr., Chief Counsel
Department of State

Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs

Joyce McKeever, Deputy Chief Counsel
Department of State

Teresa Lazo-Miller, Counsel
State Board of Optometry

State Board of Optometry



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116 PINE STREET
P.O. BOX 2649
HARRISBURG, PA
17105-2649

March 8, 2000

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

**RE: Final Regulations of the State Board of Optometry
Pertaining to Verification/Certification Fees (16A-527)**

Dear Senator Bell:

Enclosed please find twenty (20) copies of a final regulation of the State Board of Optometry.

The State Board of Optometry, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "JB Tanner", followed by the text "FAAO".

Jay B. Tanner, O.D., Chairman
State Board of Optometry

JBT:TLM:eco

c: John T. Henderson, Jr., Chief Counsel
Department of State
Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Teresa Lazo-Miller, Counsel
State Board of Optometry
State Board of Optometry



**COMMONWEALTH OF PENNSYLVANIA
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**116 PINE STREET
P.O. BOX 2649
HARRISBURG, PA
17105-2649**

March 8, 2000

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

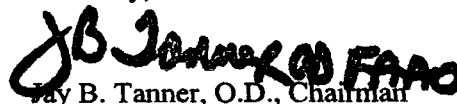
**RE: Final Regulations of the State Board of Optometry
Pertaining to Verification/Certification Fees (16A-527)**

Dear Senator Boscola:

Enclosed is a copy of a final regulation of the State Board of Optometry.

The State Board of Optometry, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,


Jay B. Tanner, O.D., Chairman
State Board of Optometry

JBT:TLM:eco

c: John T. Henderson, Jr., Chief Counsel
Department of State
Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Teresa Lazo-Miller, Counsel
State Board of Optometry
State Board of Optometry

FOR MORE INFORMATION, VISIT US THROUGH THE PENNSYLVANIA HOMEPAGE AT WWW.STATE.PA.US,
OR VISIT US DIRECTLY AT WWW.DOS.STATE.PA.US



COMMONWEALTH OF PENNSYLVANIA
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116 PINE STREET
P.O. BOX 2649
HARRISBURG, PA
17105-2649

March 8, 2000

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

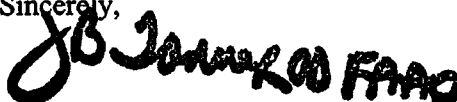
**RE: Final Regulations of the State Board of Optometry
Pertaining to Verification/Certification Fees (16A-527)**

Dear Representative Civera:

Enclosed is a copy of a final regulation of the State Board of Optometry.

The State Board of Optometry, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,


Jay B. Tanner, O.D., Chairman
State Board of Optometry

JBT:TLM:eco

c: John T. Henderson, Jr., Chief Counsel
Department of State
Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Teresa Lazo-Miller, Counsel
State Board of Optometry
State Board of Optometry



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**116 PINE STREET
P.O. BOX 2649
HARRISBURG, PA
17105-2649**

March 8, 2000

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

**RE: Final Regulations of the State Board of Optometry
Pertaining to Verification/Certification Fees (16A-527)**

Dear Representative Rieger:

Enclosed is a copy of a regulation of the State Board of Optometry.

The State Board of Optometry, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,

A handwritten signature in black ink that reads "JB Tanner, O.D. FAAD".

Jay B. Tanner, O.D., Chairman
State Board of Optometry

JBT:TLM:eco

c: John T. Henderson, Jr., Chief Counsel
Department of State
Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Teresa Lazo-Miller, Counsel
State Board of Optometry
State Board of Optometry

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

I.D. NUMBER: 16A-527
SUBJECT: State Board of Optometry - Verification/Certification Fees
AGENCY: DEPARTMENT OF STATE

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

RECEIVED
2000 MAR -8 AM 11:06
REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
2/8/00	<i>[Signature]</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
3/8/00	<i>Sammy Weaver</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
3/8/00	<i>St. Helvett</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

February 16, 2000