

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		<p style="margin: 0;">This space for use by IRRC</p> <p style="margin: 0;">99 APR 19 AM 10: 46</p> <p style="margin: 0;">IRRC REVIEW COMMISSION</p> <p style="margin: 0; text-align: center;">McGinley</p> <p style="margin: 0;">IRRC Number: <u>2032</u></p>	
<p>(1) Agency</p> <p>Department of State, Bureau of Professional and Occupational Affairs, State Board of Optometry</p>		<p>(2) I.D. Number (Governor's Office Use)</p> <p>16A-527</p>	
<p>(3) Short Title</p> <p>Application Fees</p>			
<p>(4) PA Code Cite</p> <p>49 Pa. Code §23.91</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: April L. McClaine, Counsel State Board of Pharmacy (717)783-7200</p> <p>Secondary Contact: C. Michael Weaver, Deputy Commissioner, BPOA (717)78 3-7194</p>		
<p>(6) Type of Rulemaking (check one)</p> <p><input checked="" type="checkbox"/> Proposed Rulemaking</p> <p><input type="checkbox"/> Final Order Adopting Regulation</p> <p><input type="checkbox"/> Final, Proposed Omitted</p>		<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p>Yes: By the Attorney General</p> <p>Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>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.</p>			
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>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, <u>as amended</u>, 63 P.S. §§244.3(b)(14), 244.5(b) and 244.9.</p>			

Regulatory Analysis Form

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

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

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

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

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

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

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

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

Regulatory Analysis Form

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

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

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

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.

Regulatory Analysis Form

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

Local governments would not be affected by the regulation.

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

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

Regulatory Analysis Form

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

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated						
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	<u>\$34,525</u>
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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 to the existing regulations will assure that the costs of providing the specified services to certain applicants and licensees will be borne by individuals who receive the service.

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

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

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

See No. 22 above.

Regulatory Analysis Form

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

No federal licensure standards apply.

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

These questions are not applicable to this regulation. Because the fees established by the regulation represent the Board's actual costs in providing the services requested, it is not possible to compare the costs with those of 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 reviews its regulatory proposals at regularly scheduled public meetings.

Regulatory Analysis Form

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

No changes to reporting, recordkeeping or other paperwork 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 its revenues and costs of its programs on a fiscal year and biennial basis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

99 APR 19 AM 10:45

LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

#2032

DO NOT WRITE IN THIS SPACE

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

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

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

BY:

(DEPUTY ATTORNEY GENERAL)

State Board of Optometry

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-527

APR 05 1999

DATE OF APPROVAL

DATE OF ADOPTION:

BY:

Jay B. Tanner, O.D.

4/1/99

DATE OF APPROVAL

(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 PROPOSED 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) proposes to amend its regulation at 49 Pa. Code §23.91 by revising certain application fees as set forth in Annex A.

A. Effective date

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

B. Statutory Authority

The amendments are authorized 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. §§244.3(b)(14), 244.5(b) and 244.9.

C. Background and Purpose

The Optometric Practice and Licensure 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:

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

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 heretofore 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. Description of Proposed Amendments

The following table outlines the affected application fees and proposed changes:

<u>Application/Service</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Certified copy of license for each additional practice location	\$ 15.00	\$ 20.00
Application for continuing education program approval	- 0 -	\$ 45.00
Verification of Licensure	\$ 10.00	\$ 15.00
Certification of scores or licensure, or both	\$ 15.00	\$ 25.00

E. Compliance with Executive Order 1996-1

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

F. 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 impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

G. Sunset Date

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

H. Regulatory Review

Pursuant to Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), as amended, 71 P.S. §745.5(a), the Board submitted a copy of this proposed regulation on April 19, 1999, to the Independent Regulatory Review Commission and the Chairmen of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the regulation, the Board has provided the Commission 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 the Commission has any objections to any portion of the proposed regulation, it will notify the Board within ten days after the expiration of the Committee review period. Such notification shall specify the regulatory review criteria which have not been met by that portion. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the Board, the General Assembly and the Governor, of objections raised.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments 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.

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>

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.



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

(717) 783-7155

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

April 19, 1999

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

RE: Proposed Regulation
State Board of Optometry
Application Fees: 16A-527

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Optometry pertaining to application fees.

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

Sincerely,

A handwritten signature in black ink, appearing to read "JB Tanner, O.D.", followed by the letters "FAAO" in a stylized, bold font.

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

JBT:ALM:apm
Enclosures

- c: C. Michael Weaver, Deputy Secretary for Regulatory Programs
Department of State
Deborah M. Griffiths, Regulatory Review Officer
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs
April L. McClaine, Counsel
State Board of Optometry
State Board of Optometry

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

RECEIVED

I.D. NUMBER: 16A-527

SUBJECT: State Board of Optometry Board - Application Fees

99 APR 19 AM 10:46

AGENCY: DEPARTMENT OF STATE

INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

☒ Proposed Regulation

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

4-19-99

[Signature]

✓

HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

4/19/99

[Signature]

✓

SENATE COMMITTEE ON CONSUMER PROTECTION &
PROFESSIONAL LICENSURE

4/19/99

[Signature]

✓

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL

4/19/99

[Signature]

✓

LEGISLATIVE REFERENCE BUREAU

April 6, 1999