

		This space for use by IRRC
(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Nursing		RECEIVED 2000 OCT -2 AM 11:24 INDUSTRIAL & STATISTICAL REVIEW COMMISSION
(2) I.D. Number (Governor's Office Use) 16A-626		IRRC Number: 2035
(3) Short Title Fees		
(4) PA Code Cite 49 Pa. Code §39.72	(5) Agency Contacts & Telephone Numbers Primary Contact: Robert G. Cameron, Counsel State Board of Nursing (717) 783-7200 Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. <p>The regulation amends the fee schedule for the State Board of Examiners of Nursing Home Administrators by amending fees for license applications, the N.A.B. examination, the complete nursing home administration examination, temporary permits, certification of examination scores, verification of licensure/temporary permits, continuing education provider applications, and continuing education program applications. The new fees are needed because the current fees established in 1988 and 1990 no longer reflect the cost of providing the enumerated services.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. <p>The regulatory amendments are adopted under Section 7.1(a) of the Nursing Home Administrators License Act, Act of June 22, 1970, P.L. 378, as amended, 63 P.S. §1107.1(a).</p>		

(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 fiscal integrity of the Board. If left unregulated, the costs of providing 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 receiving the service.

(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 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 licenses, the N.A.B. examination, the complete nursing home administration examination, temporary permits, continuing education providers, continuing education programs, and certification of examination scores and verification of licensure/temporary permit will be required to pay the applicable fees. The Board estimates that approximately 1,070 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 1,070 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 \$69,260.00, of which \$52,760.00 will generate revenue to cover Board costs for services rendered and \$16,500.00 will be submitted directly to the professional testing agency by the test applicants pursuant to the Commonwealth's contract with the agency. 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 this 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 cost by implementing the regulation. Indeed, the regulatory amendments will permit the Board to recoup the costs of providing the enumerated services.

(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 +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:						
Regulated Community	\$350.00	\$350.00	\$350.00	\$350.00	\$350.00	\$350.00
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community	\$34,980.00	\$34,980.00	\$34,980.00	\$34,980.00	\$34,980.00	\$34,980.00
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
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 savings or additional cost to the applicant for the service:

	<u># of people/year</u>		<u>Cost(c) or Savings (s)</u>	
a) license application fee	150	X	\$10(c)	= \$1,500(c)
b) N.A.B examination fee	150	X	\$65(c)	= \$9,750(c)*
c) complete NHA examination	150	X	\$110(c)	= \$16,500(c)**
d) temporary permit fee	10	X	\$5(s)	= \$50(s)
e) certification of exam scores	7.5	X	\$10(c)	= \$75(c)
f) verification of licensure/ temporary permit	37.5	X	\$5(c)	= \$187.50(c)
g) continuing education provider application	30	X	\$10(s)	= \$300(s)
h) continuing education program application fee per credit (Credits)	3343.5	X	\$5(c)	= \$16,717.5(c)

* Fee submitted directly to professional testing agency pursuant to contract with the Commonwealth.

** Fee submitted directly to professional testing agency pursuant to contract with Commonwealth.

This fee includes the N.A.B. examination fee.

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

Program	FY-95-96	FY- 96-97	FY -97-98	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.

(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 appears the proposed fees would not 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 other states seem to anticipate and include the following expenses in their license renewal fees and initial license fees: temporary permits, continuing education providers, continuing education program per credit, verification of licensure, and certification of scores. For example, the surrounding states that do not charge fees for temporary permits, continuing education providers, continuing education program per credit, verification of licensure, and certification of scores impose significantly higher license renewal and initial licensure 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 licensee population, whereas fees for the provision of other Board services are borne only by those licensees requesting the services.

(Continued on page 9)

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

This regulation will have no effect on other regulations of the Board or other 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 each month. Meetings are held in the Board's offices at 116-124 Pine Street, Harrisburg, Pennsylvania. The meeting dates are posted on the internet and are available by calling the Board office at (717) 783-7142.

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

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

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

The Board has perceived no special needs of any subset of its licensees for whom special provisions 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.

The following table compares the current fees for biennial renewal (REN) and the Commonwealth's proposed fees for applications for licensure (LIN), temporary permits (TEMP), continuing education provider applications (CEP), continuing education per credit application fee (CE-PC), verification of licensure or temporary permit (VER), and certification of scores (CERT).*

	PA	NJ(1)	NY(2)	MD(3)	OH	DE(4)
REN	108	150	40	100	210(annual)	270
LIN	40	100 + renewal	-	100 + renewal	150 + renewal	25
TEMP	100	-	40	-	100	-
CEP	40	-	-	50(annual)	-	48(bien)
CE-PC	15	-	-	-	-	-
VER	15	-	-	-	-	10
CERT	25	-	-	-	-	10

- (1) The New Jersey board is funded solely by board fees. The fees may be increased up to 50% without legislative approval.
- (2) The New York board is not required to generate sufficient revenue to meet operating expenses; all 38 Boards are funded from the same account.
- (3) The Maryland board is funded solely by Board fees; the board has the authority to set fees.
- (4) The Delaware board is funded by fees charged; the Director of the Department of Professional Regulation has the authority to set fees.

* The NAB examination fee and the complete nursing home administrator examination fees are submitted directly to the testing agencies by contract. The complete nursing home administration fee includes the NAB examination fee. These fees are the same for all states using the testing agency.

Towing vehicle placard—A placard provided by the Commission to permitted persons that shall be displayed on the dashboard or in a window of a vehicle.

§ 135.51. Designated roads on State game lands open to ATVs.

State game land roads that will be open for use by permitted persons operating ATVs will be designated by the Director. The Commission will make a list of these open roads available to the permittee, and will provide the list by mail to a permitted person that has applied for a towing vehicle placard.

(1) The Director, or a designee, may close State game lands or portions thereof, to recreational or other uses, when the specified uses may be or has become detrimental to those lands or the flora or fauna thereon, or where the uses conflict with legal hunting, furtaking or fishing activities or the Commission's management or administration of State game lands. The closure may be seasonal or year-round and shall remain in effect until the Director, or a designee, removes the restrictions.

(2) Designated roads shall be open for use by permitted persons from 14 days prior to the opening day of the archery season to the closing day of the late muzzleloader/archery season and during the spring turkey season.

§ 135.52. Towing vehicle placard.

(a) A permitted person may apply for a towing vehicle placard on a form provided by the Commission.

(b) The towing vehicle placard shall be displayed on the dashboard or in a window of the towing vehicle when the towing vehicle is parked on State game lands.

§ 135.53. Operation of ATVs on designated state game land roads by permitted persons.

Permitted persons may operate an ATV on designated State game land roads under the following conditions:

(1) The ATV is operated at a speed not to exceed 10 mph.

(2) A universal access symbol for the disabled, at least 3 inches by 3 inches in size is displayed in a prominent place on the ATV while on State game lands.

(3) The ATV is registered with the Department of Conservation and Natural Resources and is displaying the valid decal as required under 75 Pa.C.S. § 7712(a) and (b) (relating to registration of snowmobiles and registration and issuance of certificates of title for ATVs).

(4) The ATV is equipped with a fully functional spark arrester while operating on State game lands.

§ 135.54. Areas of operation and passengers.

(a) A permitted person may traverse a maximum of 100 yards perpendicular from the nearest road edge to establish a hunting location but may not traverse streams, springs, wet areas or food plots or other areas posted against travel.

(b) When a permitted person is incapable of operating an ATV, the person may be accompanied by one other person who is the operator, if the ATV is designed to carry a passenger.

(c) Except as provided in subsection (b), a permitted person may not carry another person as a passenger on an ATV.

§ 135.55. Penalties.

A person who violates this subchapter shall be subject to the penalties as provided in the act.

(Pa.B. Doc. No. 99-786. Filed for public inspection May 14, 1999, 9:00 a.m.)

STATE BOARD EXAMINERS OF NURSING HOME ADMINISTRATORS

[49 PA. CODE CH. 39]

Fees

The State Board of Examiners of Nursing Home Administrators (Board) proposes to amend § 39.72 (relating to fees) by revising certain fees to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The proposed amendment is authorized under section 7.1(a) of the Nursing Home Administrators License Act (act) (63 P. S. § 1107.1(a)).

C. Background and Purpose

Section 7.1(a) of 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 applicants are excluded from general operating revenues and are funded through fees in which the cost of providing a 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 costs 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 current fees do not accurately reflect the actual cost of processing license applications, or the cost of the National Association of Examiners of Long Term Care Administrators (N.A.B.) examination or the complete licensing examination. Current fees do not reflect the actual costs of issuing temporary permits, certification of examination scores, verification of licensure, verification of temporary permits, continuing education provider applications and continuing education individual program applications. Fees for temporary permits, certification of examination scores, verification of licensure, continuing education provider

applications and continuing education program applications have not been revised since July 23, 1988. While the fee for license applications has not been revised since December 22, 1990, fees for the N.A.B. examination and the complete licensing examination were last revised on January 27, 1996. The Board fee for verification of temporary permits is a new fee. The fee charged to continuing education providers exceeded the actual cost of the service provided, but all other fees fell short of the cost to provide the service.

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 revenues and expenditures.

D. Compliance with Executive Order 1996-1

In accordance with 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 proposed 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 30, 1999, the Board submitted a copy of this proposal 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 (Committees). In addition to submitting the proposal, 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.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposal, 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

regulation, 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 proposal to Melissa Wilson, Board Administrator, State Board of Examiners of Nursing Home Administrators, 116 Pine Street, Post Office Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-626 (Fees), when submitting comments.

ROBERT H. MORROW,
Chairperson

Fiscal Note: 16A-626. 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 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

FEEES

§ 39.72. Fees.

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

	* * * * *	
License application fee		\$[30] 40
N.A.B. examination fee		\$170
Effective January 1, 2000		\$235
	* * * * *	
Complete nursing home administration examination		\$212
Effective January 1, 2000		\$322
Temporary permit fee		\$[150] 145
Certification of examination scores		\$[15] 25
Verification of licensure or temporary permit		\$[10] 15
Continuing education provider application fee		\$[50] 40
Continuing education program application fee per credit		\$[10] 15
	* * * * *	

[Pa.B. Doc. No. 99-787. Filed for public inspection May 16, 1999, 9:00 a.m.]

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

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#2035

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

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BY: _____
(DEPUTY ATTORNEY GENERAL)

Bureau Of Professional and Occupational Affairs
(AGENCY)

BY: [Signature]

DOCUMENT/FISCAL NOTE NO. 16A-626

DATE OF APPROVAL

DATE OF ADOPTION: _____

4/24/00
DATE OF APPROVAL

BY: [Signature]
Robert H. Morrow

(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 39
STATE BOARD EXAMINERS OF NURSING HOME ADMINISTRATORS
FEES
16A-626

The State Board of Examiners of Nursing Home Administrators ("Board") amends §39.72 (relating to fees) as set forth in Annex A, by revising those fees related to applications and services.

A. Effective Date

The amendments will be effective upon publication in the Pennsylvania Bulletin.

B. Statutory Authority

Section 7.1(a) of the Nursing Home Administrators License Act (Act), Act of June 22, 1970, P.L. 378, as amended, 63 P.S. §1107.1(a), requires the Board to set fees by regulation. The same provisions require 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

General operating expenses of the Board are funded through biennial license renewal fees. Expenses related to processing individual applications or providing certain services 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. The fee is charged to the person requesting the service.

A recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs (Bureau) determined that the current fees did not reflect the actual cost of processing applications and performing the services. The amendments update the fees to accurately reflect the cost of processing the applications and providing the services. The background of the amendment and a description of the fees and services was published at 29 Pa.B. 2582 (May 15, 1999).

D. Summary of Comments and Responses on Proposed Rulemaking

Notice of Proposed Rulemaking was published at 29 Pa.B. 2582 (May 15, 1999). Publication was followed by a 30-day public comment period. The Board did not receive 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 following is the Board's response to those comments.

1. Certification and Verification Fees.

The HPLC questioned under what circumstances the Board certifies an examination score. Both the HPLC and IRRC requested an explanation of the difference between the administrative overhead costs for certification of scores and the administrative overhead costs for other services.

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 a license in this Commonwealth which was issued on the basis of a uniform national or regional examination which was taken in this Commonwealth. Generally, the state of 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 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 Board and other licensing boards certify the examination score the applicant achieved on the licensure examination.

The difference between the verification and certification fees is the amount of time required to produce the document requested by the licensee. States request different information when making a determination as to whether to grant licensure based on reciprocity or endorsement from another state. The Bureau of Professional and Occupational Affairs (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 the applicant applies to the other state, receives information as to what documentation and form is acceptable in the requesting state. The Bureau then advises the licensee of the type of document the Bureau can provide and the fee. In the case of a "verification" the staff produces the requested documentation by a letter, usually computer-generated, which contains the license number, date of original issuance and current expiration date, and status of the license. The letters are printed from the Bureau's central computer records and sent to the Board staff responsible for handling the licensee's application. The letters are sealed, folded and mailed in accordance with the directions of the requestor. The Bureau estimates the average time to prepare this document to be five minutes. The Bureau uses the term "certification fee" to describe the fee for a request for a document, again generally to support reciprocity or endorsement applications to other states, territories or countries, or for employment 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.

2. Administrative Overhead

IRRC requested that the Bureau and the Boards thoroughly examine its cost allocation methodology for administrative overhead and itemize the overhead cost to be recouped by the fees. IRRC commented that although the Bureau's method was reasonable, there is no indication that the fees will recover the actual overhead cost 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 fees will meet or exceed projected expenditures as required under the Board's enabling statutes. The HPLC requested an explanation regarding why the proposed fees are rounded up and are not the actual cost of services as estimated by the Board.

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 the IRRC suggested

time factor versus the current method. This review of a licensing board's 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 licensing 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 licensing boards and the Bureau has been that using established and verifiable data, which can be substantiated by collective bargaining agreements, pay scales and cost benefit factors, provides 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. Details of the Board's analysis of the cost of each fee are attached to the Regulatory Review Form, which is available upon request.

For these reasons, the Boards have not made changes in the method by which they allocate administrative expenditures and the resulting fees will remain as proposed.

The Board believes that this rulemaking will not put the Commonwealth at a competitive disadvantage with other states. Other states which are funded by fees (New Jersey, Maryland, Ohio and Delaware) seem to anticipate and include the costs of many of these services in their application fees for licensure and renewal fees. As a result, these two combined fees biennially range from \$200.00 (Maryland) to \$570.00 (Ohio) and are significantly higher than the Commonwealth's which is \$138.00. Details of the Board's analysis are in the Regulatory Analysis Form, which is available upon request.

E. 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-form regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

F. Fiscal Impact and Paperwork Requirements

These final-form regulations 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.

G. Sunset Date

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

H. 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 29 Pa.B. 2299 (May 1, 1999), to IRRC and to the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) 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 comments received, as well as other documentation.

In preparing these final-form regulations the Board 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 _____. IRRC met on _____ and (deemed) approved the regulation in accordance with Section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

I. Contact Person

Further information may be obtained by contacting Melissa Wilson, Board Administrator, State Board of Examiners of Nursing Home Administrators, P.O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7200.

J. Findings

The State Board of Examiners of Nursing Home Administrators 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. 2582 (May 15, 1999).

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

K. Order

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

(1) The regulations of the Board, 49 Pa. Code Chapter 39, are amended by amending §39.72 as set forth in Annex A.

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

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

(4) This order shall take effect on 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 39. STATE BOARD OF EXAMINERS OF
NURSING HOME ADMINISTRATORS**

FEES

§39.72. Fees.

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

Biennial renewal of nursing home administrators license.....	\$108
License application fee.....	[\$30] <u>\$40</u>
N.A.B. examination fee.....	[\$170] <u>\$235</u>
State rules and regulations examination.....	\$87
Complete nursing home administration examination.....	[\$212] <u>\$322</u>
Temporary permit fee.....	[\$150] <u>\$145</u>
Certification of examination scores.....	[\$15] <u>\$25</u>
Verification of licensure <u>or temporary permit</u>	[\$10] <u>\$15</u>
Continuing education provider application fee.....	[\$50] <u>\$40</u>
Continuing education program application fee per credit.....	[\$10] <u>\$15</u>
Continuing education individual program application fee.....	\$20



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-3658

October 2, 2000

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


Re: Final Regulation
State Board of Examiners of Nursing Home Administrators
Fees: 16A-626

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Examiners of Nursing Home Administrators pertaining to fees.

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

Sincerely,


Robert H. Morrow, Chairperson
State Board of Examiners of Nursing Home
Administrators

RHM/MHB/dn
Enclosure

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
Herbert Abramson, Senior Counsel in Charge
Bureau of Professional and Occupational Affairs
Lee Ann Murray, Regulatory Review Counsel
Bureau of Professional and Occupational Affairs
Martha H. Brown, Counsel
State Board of Examiners of Nursing Home Administrators
State Board of Examiners of Nursing Home Administrators

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

I.D. NUMBER: 16A-626
 SUBJECT: State Board of Examiners of Nursing Home Administrators - Fees
 AGENCY: DEPARTMENT OF STATE

#2035

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 OCT -2 11:11:25
 REGULATORY REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/2/00	<i>[Signature]</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
OCT 2 2000	<i>[Signature]</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10/2/00	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU