

<h1>Regulatory Analysis Form</h1>		This space for use by IRRC
		RECEIVED 2011 DEC - 6 11:11:03 REVIEWED BY: [Signature] IRRC Number: 2181
(2) I.D. Number (Governor's Office Use)		
16A-444		
(3) Short Title		
Fees		
(4) PA Code Cite	(5) Agency Contacts & Telephone Numbers	
49 Pa. Code § 29.13 49 Pa. Code § 29.83	Primary Contact: Roberta L. Silver, Counsel, State Board of Podiatry (717) 783-7200  Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200	
(6) Type of Rulemaking (check one)	(7) Is a 120-Day Emergency Certification Attached?	
<input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	<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 Podiatry by revising fees for the processing of applications for initial license, license by reciprocity, and approval of educational conference, as well as certification of licensure or scores and verification of license. The new fees are needed because the current fees established in 1989 and 1990 no longer reflect the cost of providing the enumerated services.</p> <p>The regulation further would amend the fee schedule by adding a fee for the processing of applications for authorization to perform radiological procedures once the applicant has taken the Podiatry Radiology Examination. The new fee is necessary to offset the identifiable costs incurred by the Board to review and process a request for radiology authorization and defray a portion of the Board's administrative overhead. Unnecessary regulations regarding examination fees would be deleted, as well.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.		
<p>The Board has authority to establish fees by regulations to cover its costs under Section 14(a) of the Podiatry Practice Act, Act of December 20, 1985, P.L. 384, No. 107, <u>as amended</u>, 63 P.S. § 42.14(a).</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 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.)

See attached fee report forms.

(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.

See attached fee report forms. 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 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.

## 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
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>						
Regulated Community	7,662.50	7,662.50	7,662.50	7,662.50	7,662.50	7,662.50
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>	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 number of persons that 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 services. See attached fee report forms for details.

## 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.

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

## 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?

See the Comparison of Podiatry Fees on page 9. It should be noted that Pennsylvania's fees are generally much less than surrounding states. However, the fees established by the regulation represent the Board's actual costs in providing the services requested.

(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 affect 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 bi-monthly. Meetings are held in the Board's offices at 116-124 Pine Street, Harrisburg, Pennsylvania. The meeting dates are posted on the internet at [www.dos.state.pa.us](http://www.dos.state.pa.us) and are available by calling the Board office at (717) 783-1400.

## 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, record keeping 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 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.



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REFERENCE BUREAU  
REVIEW COMMISSION

#2181

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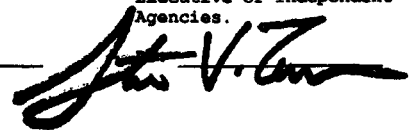
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BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

State Board of Podiatry  
\_\_\_\_\_  
(AGENCY)



DOCUMENT/FISCAL NOTE NO. 16A-444

\_\_\_\_\_  
DATE OF APPROVAL

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

11/27/01  
DATE OF APPROVAL

BY:   
Jeffrey S. Gerland, D.P.M.

(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.

FINAL RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF PODIATRY  
49 PA. CODE, CHAPTER 29  
FEES

The State Board of Podiatry (Board) hereby amends its regulations at 49 Pa. Code §§ 29.1, 29.12, 29.13 and 29.83 as set forth in Annex A, by revising those fees which are not related to license renewals but rather to applications and specific services so as to accurately reflect the cost of processing applications and providing services, and by omitting reference to the examination fees for the national licensing examination and podiatry radiology examination.

A. Effective Date

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

B. Statutory Authority

The amendments are authorized under Section 14(a) of the Podiatry Practice Act, Act of December 20, 1985, P.L. 384, No. 107, as amended, 63 P.S. § 42.14(a).

C. Background and Purpose

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

A recent systems audit within the Bureau of Professional and Occupational Affairs determined that the application and service fees did not accurately reflect the actual cost of processing the applications and performing the services. A detailed explanation of the background of these fees as well as a description of the fees was published at 31 Pa.B. 1858 (April 7, 2001).

D. Comment and Regulatory Review of Proposed Rulemaking

Publication of proposed rulemaking at 31 Pa.B. 1858 (April 7, 2001) was followed by a 30-day public comment period during which the Board received no public comments. Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC). The Board did not receive comments from either the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The following is a response to the comments submitted by IRRC:

IRRC suggested that the Board define "National Board" in the definitional section of the regulation. The Board has complied with this suggestion by adding the definition to the Annex under § 29.1 and making editorial changes to § 29.12.

Currently, candidates take the National Board examination and the PM Lexis examination sequentially. Both examinations are recognized uniform examinations used throughout the United States. The General Assembly has indicated its preference for the recognition of national uniform examinations and grading services in accordance with Section 812.1 of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 279.3a. The fee for the examination is established by the national examiner and communicated directly to the applicants. Applicants for the exam pay the examination fee directly to the national examiner. Thus, it is unnecessary and impractical for the Board to continue to publish the national examiner's examination fee in the Board's regulations. Therefore, the Board is eliminating reference to the examination fee.

IRRC further inquired whether there is a mechanism in place to provide for a refund of the advance-paid \$25 fee for the application for authorization to perform radiologic procedures in the event that the applicant does not pass the examination and ultimately decides not to retake it. An applicant may request a refund by providing to the Board their name, address, social security number and a statement that they are no longer interested in obtaining authorization in this state. Because this is the only application fee that can be refunded, the original language in § 19.13 of the Board's regulations stating, "These fees will not be refunded," has been deleted.

E. Description of Amendments

The following table outlines the affected application fees, changes and date the indicated fee was last changed:

FeeType	Current Fee	Effective Date	Proposed Fee
1. Initial License	25.00	03/17/90	30.00
2. License By Reciprocity	105.00	02/18/89	95.00
3. Application For Approval of Educational Conference	50.00	02/18/89	75.00
4. Certification of Licensure or Scores	15.00	02/18/89	25.00
5. Verification of License	10.00	02/18/89	15.00
6. Application for Authorization to Perform Radiologic Procedures	0.00		25.00

F. 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.

G. 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, its political subdivisions or the private sector.

H. Sunset Date

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted copies of the notice of proposed rulemaking, published at 31 Pa.B. 1858 (April 7, 2001) to IRRC, SCP/PLC and HPLC for review and comment.

In preparing the final-form regulation, the Board has considered any comments received from IRRC, SCP/PLC, HPLC and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), this final-form regulation was (deemed) approved by the HPLC on \_\_\_\_\_, and (deemed) approved by SCP/PLC on \_\_\_\_\_. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on \_\_\_\_\_, and (deemed) approved the final-form regulation.

J. Contact Person

Further information may be obtained by contacting Gina Bittner, Board Administrator, State

Board of Podiatry, 116 Pine Street, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649  
(gbittner@state.pa.us).

K. Findings

The State Board of Podiatry finds that:

- (1) 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 thereunder, 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 31 Pa.B. 1858 (April 7, 2001).
- (4) This amendment is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this Preamble.

L. Order

The State Board of Podiatry, acting under its authorizing statutes, orders that:

- (a) The regulations of the Board, 49 Pa. Code Chapter 29, are amended by amending sections 29.1, 29.12, 29.13 and 29.83 to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

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Jeffrey S. Gerland, D.P.M.,  
Chairman

ANNEX A  
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
CHAPTER 29. STATE BOARD OF PODIATRY  
SUBCHAPTER A. FEES

\* \* \*

**§29.1. Definitions.**

\* \* \*

NATIONAL BOARD – THE EXAMINATION GIVEN BY THE NATIONAL BOARD OF  
PODIATRIC MEDICAL EXAMINERS.

\* \* \*

**§ 29.12. Adoption of National Board Examination.**

(a) The Board adopts as part of its examination the [~~National Board Examination~~] ~~examination given by the National Board of Podiatric Medical Examiners~~. Candidates who have passed this examination under the standards set forth in Section 8 of the act (63 P.S. § 42.8) will be considered as having passed this portion of the Board's examination.

(b) Applicants who have passed the National Board will be permitted to take the [State portion of the] PM Lexis examination or an examination given by its current provider or successor provided they meet the other requirements for examination imposed by the act or by this chapter.

(c) The State Board of Podiatry has adopted nationally recognized examinations for both of the above examinations. Fees are established by the national owners/providers of the examinations. Candidates for examination shall obtain applications directly from the provider and pay the fee for the examination directly to the provider.

**§ 29.13. Fees.** (a) The schedule of fees charged by the Board is as follows:

[Examination or reexamination.....	\$345
Effective June 1996.....	\$395]
Initial License.....	[\$ 25] <u>\$30</u>
Biennial renewal of license.....	\$175
License by reciprocity.....	[\$105] <u>\$95</u>

Branch office certificate.....	\$ 20
Application for approval of educational conference.....	[\$ 50] <u>\$75</u>
Certification of licensure or scores.....	[\$ 15] <u>\$25</u>
Verification of licensure.....	[\$ 10] <u>\$15</u>
<u>Application for authorization to perform radiologic procedures.....</u>	<u>\$25</u>

[(b) Fees for examination or reexamination and initial license shall accompany the application. Refunds of fees for examination or reexamination and initial license shall be as specified in the application for examination.]

(b) [Other] Fees shall accompany applications and be made payable to the "Commonwealth of Pennsylvania" by personal check or money order. ~~These fees will not be refunded.~~

\* \* \*

#### SUBCHAPTER B. EXAMINATIONS

\* \* \*

#### § 29.83. Examinations.

(a) An examination in radiology shall cover the subjects of anatomy, physiology and physics for technicians and radiographers, with emphasis being placed on the scope of the practice of podiatric medicine.

(b) Applications for examination shall be completed on forms furnished by the Board and submitted at least 60 days prior to the scheduled date of the examination [to the State Board of Podiatry, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649.] to the address indicated on the application materials with the fee as required by the examination administrator.

[(c) The fee for examination is \$87.]

# PROPOSED RULEMAKING

## INSURANCE DEPARTMENT

[31 PA. CODE CH. 146a]

(Correction)

### Privacy of Consumer Financial Information

An error occurred in a proposal published at 31 Pa.B. 1748, 1755 (March 31, 2001). The definition of "consumer" was incorrect. The correct version, as submitted by the Department, appears in Annex A, with ellipses referring to the existing text of the proposal.

#### Annex A

#### TITLE 31. INSURANCE

#### PART VIII. MISCELLANEOUS PROVISIONS

#### CHAPTER 146a. PRIVACY OF CONSUMER FINANCIAL INFORMATION

##### § 146a.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context requires otherwise:

\* \* \* \* \*

*Consumer*—An individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, or that individual's legal representative. Examples include:

- (i) An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.
- (ii) An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer.
- (iii) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.
- (iv) An individual is a licensee's consumer if the individual is:
  - (A) A beneficiary of a life insurance policy underwritten by the licensee.
  - (B) A claimant under an insurance policy issued by the licensee.
  - (C) An insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee.
  - (D) A mortgagor of a mortgage covered under a mortgage insurance policy.
  - (E) Licensee discloses nonpublic personal financial information about the individual to a third party other than as permitted under §§ 146a.31—146a.33.
- (v) Provided that the licensee provides the initial, annual and revised notices under §§ 146a.11, 146a.12 and 146a.15 to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder, workers' compensation plan participant, and further provided that the licensee does not disclose to a third party

nonpublic personal financial information about such an individual other than as permitted under §§ 146a.31—146a.33, an individual is not the consumer of the licensee solely because the individual is:

- (A) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary.
- (B) Covered under a group or blanket insurance policy or group annuity contract issued by the licensee.
- (C) A beneficiary in a workers' compensation plan.
- (vi) The individuals described in subparagraph (v) are consumers of a licensee if the licensee does not meet all the conditions of subparagraph (v).
- (vii) In no event shall the individuals, solely by virtue of the status described in subparagraph (v) be deemed to be customers for purposes of this chapter.
- (viii) An individual is not a licensee's consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee.
- (ix) An individual is not a licensee's consumer solely because the individual has designated the licensee as trustee for a trust.

\* \* \* \* \*

[Pa.B. Doc. No. 01-550. Filed for public inspection March 30, 2001, 9:00 a.m.]

## STATE BOARD OF PODIATRY

[49 PA. CODE CH. 29]

### Fees

The State Board of Podiatry (Board) proposes to amend §§ 29.12, 29.13 and 29.83 (relating to adoption of National board examination; fees; and examinations) to read as set forth in Annex A, by revising those fees which are not related to license renewals but rather to applications and specific services to accurately reflect the cost of processing applications and providing services, and by omitting reference to the examination fees for the National licensing examination and podiatry radiology examination.

#### A. Effective Date

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

#### B. Statutory Authority

The proposed amendments are authorized under section 14 of the Podiatry Practice Act (act) (63 P. S. § 42.14).

#### C. Background and Purpose

Section 14 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 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 (Bureau), the fees for services for 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:

$$\begin{array}{r} \text{Number of minutes to perform the function} \\ \times \\ \text{Pay rate for the classification of the personnel performing} \\ \text{the function} \\ + \\ \text{A proportionate share of administrative overhead} \end{array}$$

As a result of the audit, the Board proposes to increase four existing fees, to decrease one fee and to add one additional fee. The analysis determined that current fees do not accurately reflect the actual cost of processing applications and providing other services.

In this proposal, fees for the services identified would be adjusted to allocate costs to those who use the service or submit an application. The Board would continue to apportion its enforcement and operating costs to the general licensing population when the Board makes its biennial reconciliation of revenues and expenditures.

*Administrative Overhead*

During reviews of other Bureau proposed fee regulations, the Independent Regulatory Review Commission (IRRC) requested that the Bureau and the boards: (1) itemize the overhead cost to be recouped by the fees; and (2) reexamine 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 1/2 hour of processing time would pay one-half as much overhead charge as an application requiring 1 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's suggested time factor versus the current method.

This review of Board operations 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 noted that the computation of projected expenditures based on amounts actually expended has been the basis for biennial reconciliations for the past 10 years. During these 5 biennial cycles, the experience of both the 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, recordkeeping 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.

In the past, questions have arisen as to the difference between 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 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 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 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 Pennsylvania Board and other 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. As noted, 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 the licensee 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 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 5 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 to provide the information requested. The Board staff then seals and issues this document.

The Board is also taking this opportunity to eliminate references to the National Board of Podiatric Medical Examiners examination fee over which the Board has no control or involvement. Currently, candidates take the National board examination and the PM Lexis examination sequentially. Both examinations are recognized uniform examinations used throughout the United States. The General Assembly has indicated its preference for the recognition of National uniform examinations and grading services in accordance with section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a). The fee for the examination is established by the National examiner and communicated directly to the applicants. Applicants for the exam pay the examination fee directly to the National examiner. Thus, it is unnecessary and impractical for the Board to continue to publish the National examiner's examination fee in the Board's regulations. Therefore, the Board is eliminating reference to the examination fee. Moreover, since examination fees are no longer established by the Board, sections 4, 8 and 14 of the act (63 P. S. §§ 42.4, 42.8 and 42.14) are inapplicable as to National uniform examinations.

In addition, the Board is also taking this opportunity to eliminate references to the examination fee for the podiatry radiology examination over which the Board has no control or involvement. A person may, within the practice of podiatric medicine, perform radiologic procedures on

the premises of a podiatrist and under the direct supervision of the podiatrist if the person has passed an examination approved and administered by the Board. See § 29.82(a)(3) (relating to auxiliary personnel performing radiologic procedures). Recently, through a competitive bidding process, the Board has contracted with Professional Credential Service (PCS) to develop and administer the podiatry radiology examination for a period of 5 years, beginning September 1, 2000. The examination is administered twice a year. During the past year, 33 candidates have taken the examination. Candidates for the exam pay the examination fee directly to PCS. Because this contract has been secured by PCS through a competitive bidding process, it is unnecessary and impractical for the Board to continue to publish the fee for this examination in the Board's regulations. Therefore, the Board is eliminating reference to the examination fee.

The Board, moreover, proposes a new fee which will be charged to all applicants who take the radiology technician examination. This fee, which will be charged only once per applicant, is in addition to the examination fee and will be paid directly to PCS prior to the applicant taking the examination. This proposed fee, which will be forwarded back to the Bureau, will cover the administrative costs to the Bureau of providing an authorization form permitting each person who passes the examination to perform radiologic procedures on the premises of a podiatrist and under the direct supervision of a podiatrist. It is presumed that any applicant who fails the examination will retake the examination until the applicant passes and that this "one-time only" fee will be applied toward the authorization form subsequent to the applicant passing the examination.

#### D. Description of Proposed Amendments

The following table outlines the affected application fees, proposed changes and date the indicated fee was last changed:

Fee Type	Current Fee	Effective Date	Proposed Fee
1. Initial License	\$25	03/17/90	\$30
2. License By Reciprocity	105	02/18/89	95
3. Application For Approval of Educational Conference	50	02/18/89	75
4. Certification of Licensure or Scores	15	02/18/89	25
5. Verification of License	10	02/18/89	15
6. Application for Authorization to Perform Radiologic Procedures	0		25

#### E. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the amendments 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

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), March 23, 2001, the Board submitted a copy of these proposed amendments to 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 proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the Board, the General Assembly and the Governor, of objections raised.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Roberta L. Silver, Counsel, State Board of Podiatry, 116 Pine Street, Post Office Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No.16A-444 (Fees), when submitting comments.

JEFFREY S. GERLAND, D.P.M.,
Chairperson

Fiscal Note: 16A-444. 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 29. STATE BOARD OF PODIATRY LICENSES

§ 29.12. Adoption of National board examination.

(a) The Board adopts as part of its examination the [ National Board Examination ] examination given by the National Board of Podiatric Medical Examiners. Candidates who have passed this examination under the standards [ set forth ] in section 8 of the act (63 P.S. § 42.8) will be considered as having passed this portion of the Board's examination.

(b) Applicants who have passed the National Board will be permitted to take the [ State portion of the ] PM Lexis examination or an examination given by its

current provider or successor provided they meet the other requirements for examination imposed by the act or by this chapter.

(c) The State Board of Podiatry has adopted Nationally recognized examinations for both of the examinations in subsections (a) and (b). Fees are established by the National owners/providers of the examinations. Candidates for examination shall obtain applications directly from the provider and pay the fee for the examination directly to the provider.

§ 29.13. Fees.

(a) The schedule of fees charged by the Board is as follows:

Table with 2 columns: Fee description and Amount. Includes items like Examination or reexamination (\$345), Effective June 1996 (\$395), Initial license (\$25), License by reciprocity (\$105), Application for approval of educational conference (\$50), Certification of licensure or scores (\$15), Verification of licensure (\$10), Application for authorization to perform radiologic procedures (\$25).

(b) [ Fees for examination or reexamination and initial license shall accompany the application. Refunds of fees for examination or reexamination and initial license shall be as specified in the application for examination.

Other fees ] Fees shall accompany applications and be made payable to the "Commonwealth of Pennsylvania" by personal check or money order. These fees will not be refunded.

PERFORMANCE OF RADIOLOGICAL PROCEDURES BY AUXILIARY PERSONAL

§ 29.83. Examinations.

(b) Applications for examination shall be completed on forms furnished by the Board and submitted at least 60 days prior to the scheduled date of the examination [ to the State Board of Podiatry, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 ] to the address indicated on the application materials with the fee as required by the examination administrator.

[ (c) The fee for examination is \$87. ]

[Pa.B. Doc. No. 01-591. Filed for public inspection April 6, 2001, 9:00 a.m.]

Chart comparing Application Fees for States contiguous to Pennsylvania

FEE COMPARISON						
PODIATRY						
<b>bold = proposed</b>	<b>PA</b>	<b>NJ</b>	<b>NY</b>	<b>MD</b>	<b>OH</b>	<b>DE</b>
Renewal (biennial)	175	250	210 (tri)	750	305	
Initial License App	<b>30</b>	125(1)	345	575-750	257	25
Reciprocal(or Endorsement)App	<b>95</b>	150(1)	n/a	750	350	
Rad Tech App	<b>25</b>		thru Bd. Of H.th	n/a	thru Bd of Hlth	
Temp/Limited Permit			105	50	n/a	
C.E. Program App	<b>75</b>			0	n/a	
Dup. Lic.	<b>5</b>		10	25	35	
Certification of Lic	<b>25</b>		20	55	35	
Verification of Lic	<b>15</b>		20	10	35	
Reinstatement/Restoration (in addition to other fee(s) due			n/a	200-750	100*	
Late Renewal Fee	<b>\$5 per mo</b>		\$10 per mo	25	50	
Reg. Corp. Name			90	50		
Fee to place on inactive	<b>0</b>		0	150 + 25	emeritus-\$100	
*after 1 year				annually		
Unable to contact DE for information about Pd. Previous contact for other prof. revealed that fees are set by Agency head depending on needs at beg. of fiscal year.						

## FEE REPORT FORM

Agency: State - BPOA

Date: February 17, 1999

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

Application for License by Examination: \$30.00

Estimated Biennial Revenue: \$6,000.00 (200 applications x \$30.00)

### Fee Description:

The fee will be charged to every applicant who applies for licensure by examination.

### Fee Objective:

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

### Fee-Related Activities and Costs:

Staff time- review and process application	(0.50 hr)	10.15
Administrative Overhead:		<u>20.65</u>
	Total Estimated Cost:	\$30.80
	Proposed Fee:	\$30.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established to review an application for licensure by examination.

**Page 2 - Application for License by Examination:**

**02/17/99**

**Board Staff:** Reviews application for completeness, verifies that supporting documents are attached, contacts candidate to request any missing information, confirms that candidate passed licensing examination, issues license through computer or issues letter of rejection.

## FEE REPORT FORM

Agency: State - BPOA

Date: February 17, 1999

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

Application for Licensure by Reciprocity: \$95.00

Estimated Biennial Revenue: \$1,425.00 (15 applications x \$95.00)

### Fee Description:

The fee will be charged to every applicant who applies for licensure by reciprocity.

### Fee Objective:

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

### Fee-Related Activities and Costs:

Staff time- review and process application	(0.75 hr)	15.23
Board Meeting - evaluate qualifications/vote	(0.25 hr)	56.25
Administrative Overhead:		<u>20.65</u>
	Total Estimated Cost:	\$92.13
	Proposed Fee:	\$95.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$95.00 be established to review an application for licensure by reciprocity.

**Board Staff:** Reviews application for completeness, verifies that supporting documents are attached, contacts candidate to request any missing information. Prepares application for review and vote by full board. Board meeting - evaluate qualifications, vote to approve or deny licensure. Board staff then notifies applicant by issuing license or letter of rejection.



## FEE REPORT FORM

Agency: State - BPOA

Date: February 17, 1999

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

Continuing Education Program Application Fee: \$75.00

Estimated Biennial Revenue: \$6,750.00 (90 applications x \$75.00)

### 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 Podiatry 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 prep & review	0.50 hr	10.15
Board administrator: app. evaluation	0.25 hr	7.55
Board meeting - evaluate program/vote	0.17 hr	37.50
Administrative Overhead:		<u>20.65</u>
Total Estimated Cost:		\$ 75.85
Proposed Fee:		\$ 75.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$75.00 be established to process an application for approval of a continuing education program.

**February 17, 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. The application and supporting documents are reviewed by board administrator and placed on agenda for board member review to evaluate and determine if qualifications meet board standards. Following vote by full board, applicant is notified of decision; if approved, program is entered into computer system.

## FEE REPORT FORM

Agency: State - BPOA

Date: 02/17/99

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

Certification of Scores: \$25.00

Estimated Biennial Revenue: \$375.00 (15 certifications x \$25.00)

### Fee Description:

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

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Podiatry to review and process a request for certification and (2) defray a portion of the Board's administrative overhead.

### Fee-Related Activities and Costs:

Staff time- process request for certification (.75 hr)	15.23
Bureau Average Administrative Overhead:	<u>9.76</u>
Total Estimated Cost:	\$24.99
Proposed Fee:	\$25.00

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$25.00 be established for certification of 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.

## FEE REPORT FORM

Agency: State - BPOA

Date: 02/17/99

Contact: C. Michael Weaver

Phone No. 783-7194

### Fee Title, Rate and Estimated Collections:

Verification of License, Registration or Certificate: \$15.00

Estimated Biennial Revenue: \$150.00 (10 verifications x \$15.00)

### Fee Description:

The fee will be charged to every applicant who requests verification of license, registration or certificate.

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Podiatry 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:		9.76
	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, registration or certificate.

**Page 2 Verification of License, Registration or Certificate**

**02/17/99**

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:** July 18, 2000

**Contact:** David Williams

**Phone No.** 783-7194

### **Fee Title, Rate and Estimated Collections:**

**Application for Pa. Podiatry Radiology Examination Authorization: \$25.00**

Estimated Biennial Revenue: \$625.00 (25 applications x \$25.00)

### **Fee Description:**

The fee will be charged to every applicant for the Pa. Podiatry Radiology Examination Authorization.

### **Fee Objective:**

The fee should (1) offset the identifiable costs incurred by the State Board of Podiatry to review and process a request for Radiology authorization and (2) defray a portion of the Board's administrative overhead.

### **Fee-Related Activities and Costs:**

Staff time- Process exam results & issue document (.25 hr)	5.08
Averaged Administrative Overhead:	<u>17.24</u>
Total Estimated Cost:	\$22.32
Proposed Fee:	\$25.00

### **Analysis, Comment, and Recommendation:**

It is recommended that a fee of \$25.00 be established to process an application for authorization to perform radiological procedures.

**M.I.S. Staff:** Receives examination results from test contractor and enters information into our computer system to update our records. A letter is produced informing the applicant that they are authorized to perform radiologic procedures under the direct supervision of a licensed Podiatrist. This information must be maintained on our database perpetually in order to confirm that an individual has/has not met the requirements in this state. The administrative overhead charge has been averaged for the boards offering the radiology examination because processing and approval notification are similar. This charge is the only fee paid by the applicants to the State Board of Podiatry as the authorization is not subject to renewal.





COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF PODIATRY  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-4858

December 6, 2001

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

Re: Final Regulation  
State Board of Podiatry  
Fees: 16A-444

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Podiatry pertaining to 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 "Jeffrey S. Gosland".

Jeffrey S. Gosland, D.P.M., Chairperson  
State Board of Podiatry

JSG/RLS:ds

Enclosure

c: John T. Henderson, Jr., Chief Counsel  
Department of State  
Albert H. Masland, Commissioner  
Bureau of Professional and Occupational Affairs  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Philip Zarone, Regulatory Counsel  
Bureau of Professional and Occupational Affairs  
Gerald S. Smith, Senior Counsel in Charge  
Bureau of Professional and Occupational Affairs  
Roberta L. Silver, Counsel  
State Board of Podiatry  
State Board of Podiatry

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

I.D. NUMBER: 16A-444  
 SUBJECT: State Board of Podiatry - Fees  
 AGENCY: DEPARTMENT OF STATE

**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

2001 DEC -6 11:11:05  
 REGISTRATION DIVISION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
12-16-01		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
DEC 06 2001		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
Dec. 6, 2001		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU