

# Regulatory Analysis Form

This space for use by IRRC

RECEIVED

2003 NOV 12 PM 12:01

IRRC REVIEW COMMISSION

(1) Agency

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

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

16A-4611

IRRC Number: 2222

(3) Short Title

Appilication Fees

(4) PA Code Cite

49 Pa. Code § 33.3

(5) Agency Contacts & Telephone Numbers

Primary Contact: Deborah B. Eskin, Counsel  
State Board of Dentistry (717) 783-7200  
Secondary Contact: Joyce McKeever, Deputy Chief  
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking  
Omitted

(7) Is a 120-Day Emergency Certification Attached?

No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation amends the fee schedule for the State Board of Dentistry to add new fees for the dental radiology authorization and notification of postgraduate training or faculty member. The new fees are needed to cover the cost of providing those services.

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

The regulatory amendments are adopted under Section 4(b) of the Dental Law (Law) (63 P.S. § 123(b)).

## 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 to meet or exceed expenditures over a biennial period. See Item No. 9 for the specific law.

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

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

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

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

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

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

## Regulatory Analysis Form

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

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

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

Persons seeking authorization to provide radiologic procedures and persons notifying the Board of postgraduate training or faculty member status will be assessed the applicable fees. The Board estimates that approximately 3,300 persons will avail themselves of one or more of the enumerated services in a 2-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.

Currently, there are 23,114 dental technician authorizations on file. The Board estimates that 3,300 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 \$82,500. However, only those requesting the services will be affected. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.

## Regulatory Analysis Form

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

Local governments would not be affected by the regulation.

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

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

## Regulatory Analysis Form

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

|                        | Current FY | FY +1    | FY +2    | FY +3    | FY +4    | FY +5    |
|------------------------|------------|----------|----------|----------|----------|----------|
| <b>SAVINGS:</b>        | \$         | \$       | \$       | \$       | \$       | \$       |
| Regulated              |            |          |          |          |          |          |
| Local Government       |            |          |          |          |          |          |
| State Government       |            |          |          |          |          |          |
| Total Savings          |            |          |          |          |          |          |
| <b>COSTS:</b>          |            |          |          |          |          |          |
| Regulated              | \$16,875   | \$33,750 | \$33,750 | \$33,750 | \$33,750 | \$33,750 |
| Local Government       |            |          |          |          |          |          |
| State Government       |            |          |          |          |          |          |
| Total Costs            |            |          |          |          |          |          |
| <b>REVENUE LOSSES:</b> |            |          |          |          |          |          |
| 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 period (one-half biennium) multiplied by the savings or additional cost to the applicant for the service:

The Board estimates that biennially 300 teachers and post graduate trainees (or 150 each fiscal year) will notify the Board of such practice and that the Board will issue 150 notification letters each year. The fee to file such notifications, \$25, would result in \$3750 FY-costs each year to these individuals as a group.

The Board estimates that biennially 3,000 persons take and pass the examination to administer radiologic procedures in a dental office (or 1,500 annually). The \$20 fee to issue authorizations to such persons will result in \$30,000 FY-costs each year to those individuals as a group.

## Regulatory Analysis Form

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

| Program                  | FY -3        | FY -2        | FY -1          | Current FY     |
|--------------------------|--------------|--------------|----------------|----------------|
| State Board of Dentistry | \$790,226.64 | \$910,310.90 | \$1,007,324.75 | \$1,042,000.00 |
|                          |              |              |                |                |
|                          |              |              |                |                |
|                          |              |              |                |                |

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The amendments to the existing regulations will assure that the costs of providing the specified services to certain applicants and licensees will be borne by individuals who receive the service.

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

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

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

See No. 22 above.

## Regulatory Analysis Form

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

No federal licensure standards apply.

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

Pennsylvania should not be placed at serious competitive disadvantage with other states. Delaware, New York, Virginia, Maryland and Ohio do not charge a notification application fee for post-graduate training or faculty member. Maryland has a \$10.00, and Ohio a \$25.00, dental radiology application fee.

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

This regulation will have no effect on other regulations of the Board or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

In light of the statutory mandate, the Board has scheduled no public hearings or informational meetings regarding this regulation.

## Regulatory Analysis Form

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

No changes to reporting, recordkeeping or other paperwork 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 applicants or licensees for whom special accommodations would have to 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 as an Order of Final Rulemaking 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.



to final-form publication of the regulation, by the Board, the General Assembly and the Governor of objections raised.

I. *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Sara Sulpizio, Administrator, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

CAROL M. THOMPSON,  
*Chairperson*

**Fiscal Note:** 16A-4510. 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 7. STATE BOARD OF COSMETOLOGY GENERAL PROVISIONS**

§ 7.2. Fees.

[ (a) The fee for the cosmetologist, cosmetician, manicurist or teacher examination is \$59. The fee for the manager theory examination is \$31. The fee for each portion of an examination is:

Theory examination ..... \$31  
Performance examination (not applicable to managers) ..... \$28

(b) Effective September 1, 1999, the fee for the complete cosmetologist, cosmetician, manicurist or teacher examination is \$71. The fee for the manager theory examination is \$31. The fee for each portion of an examination is:

Theory examination ..... \$41  
Performance examination (not applicable to managers) ..... \$30

(c) Other fees ] Fees charged by the Board are as follows:

Licensure of cosmetologist, manicurist or cosmetician ..... \$10  
Licensure of cosmetology shop manager or cosmetology teacher ..... \$10  
Licensure of cosmetology shop, manicurist shop or cosmetician shop ..... \$55  
Licensure of cosmetology school ..... \$160  
Licensure by reciprocity ..... \$20  
Registration of cosmetology apprentice ..... \$70  
Biennial renewal of manicurist's license ..... \$21  
Biennial renewal of cosmetician's license ..... \$21  
Biennial renewal of cosmetologist's license ..... \$23  
Biennial renewal of cosmetology shop manager's or cosmetology teacher's license ..... \$36  
Biennial renewal of cosmetology shop's license ..... \$41  
Biennial renewal of cosmetician or manicurist shop's license ..... \$25

Biennial renewal of cosmetology school's license ..... \$66  
Approval of cosmetology school supervisor ..... \$20  
Change in cosmetology, cosmetician or manicurist shop (inspection required) ..... \$55  
Change in cosmetology, cosmetician or manicurist shop (no inspection required) ..... \$15  
Reinspection of cosmetology, cosmetician or manicurist shop or cosmetology school ..... \$40  
Certification of student or apprentice training hours ..... \$30  
Verification of license, registration, permit or approval ..... \$15

[Pa.B. Doc. No. 01-1837. Filed for public inspection October 12, 2001, 9:00 a.m.]

**STATE BOARD OF DENTISTRY**

[49 PA. CODE CH. 33]

**Application Fees**

The State Board of Dentistry (Board) proposes to amend § 33.3 (relating to fees) by revising certain application fees to read as set forth in Annex A.

A. *Effective Date*

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

B. *Statutory Authority*

The proposed amendment is authorized under section 4(b) of the Dental Law (law) (63 P. S. § 123(b)).

C. *Background and Purpose*

The law 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 for services that 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 to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

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

The analysis, with regard to the Board, determined that there are currently no fees for two services, which do not support the actual cost of providing those services: application for dental radiology authorization and notification application—postgraduate training or faculty member.

Section 11.4 of the law (63 P. S. § 130e) provides that no auxiliary personnel may perform radiologic procedures unless under the direct supervision of the dentist who is on the premises at the time that the X-ray is taken, and unless the person has passed the radiologic examination. Section 33.302 (relating to auxiliary personnel performing radiologic procedures) implements these provisions. Persons who have passed the Board approval dental radiologic procedure examination file an application requesting authorization to perform those radiologic procedures under the direct supervision of a dentist. A letter of authorization is issued by the Board.

Section 2(d) of the law (63 P. S. § 121(d)) allows dentists who are licensed in another state or country to practice without Pennsylvania licensure in this Commonwealth for the limited purpose of teaching, including clinical teaching, in a dental school or advanced dental education program in this Commonwealth approved by the Board after notification to the Board and in accordance with Board regulations. Section 2(f) of the law also allows the practice of dentistry without a license by persons in a dental clinic operated not for profit during the duration of an internship, residency or other approved graduate training program, by persons with the required education for admission into the program, and after notification to the Board.

In this proposal, fees for the services identified previously would be adjusted to allocate costs to those who use the service or make application. The Board would continue to apportion enforcement and operating costs to the general licensing population by means of its license renewal fee through the biennial reconciliation of revenue and expenditures.

#### *Administrative Overhead*

During reviews of similar proposed application fee regulations for other boards, 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 over a 2-year period, as required under 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 the 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 ½ 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 the IRRC 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 25% recouped using a ratio-based time factor. However, when the time factor is combined with the licensing population for each board, the resulting fees vary widely even though different licensees may receive the same services, for example, using the time-factor method to issue a verification of licensure would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Conversely, under the Bureau method the administrative overhead charge of \$9.76 represents the cost of processing a verification application for all licensees in the Bureau. Also, the Bureau found that employing a time factor in the computation of administrative overhead would result in a different amount of overhead charge being made for each fee proposed.

With regard to IRRC's suggestions concerning projected versus actual expenses, the boards note that the computation of projected expenditures based on amount actually expended has been the basis for biennial reconciliations for the past 12 years. During these 6 biennial cycles, the experience of both the boards and the Bureau has established that verifiable data can be substantiated by collective bargaining agreements, pay scales and cost benefit factors. This method has provided a reliable basis for fees. Also, the fees are kept at a minimum for licensees, but appear adequate to sustain the operations of the boards over an extended period. Similarly, accounting, 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.

For these reasons, the boards have not made changes in the method by which administrative expenditures are allocated and the resulting fees will remain as proposed.

#### *D. Description of Services*

Professional licensing boards other than the Board have also been proposing revisions to nonrenewal fees. Review of the proposed new fee regulations by the House Professional Licensure Committee and Senate Consumer Protection and Professional License Committee indicated that certain explanations of the services for which fees are charged would be helpful for an understanding of the need to set appropriate fees.

*Application Fee for Dental Radiology Authorization*

This fee is necessary to offset costs incurred by the Board to process a request for authorization to perform radiologic procedures under the direct supervision of a dentist.

Applicants apply to and are examined by a professional testing contractor. Candidates who pass the examination are reported to the Bureau by the contractor. This information is entered into the Bureau's database and an authorization letter is issued to the applicant. The information must be maintained in the database perpetually, for informational purposes and also for providing duplication authorization letters upon request. This fee is the only contribution applicants make to the operational expenses of the Board since the authorization is not subject to renewal. The administrative overhead charge has been averaged for the boards offering the radiology examination.

*Notification Application—Postgraduate Training or Faculty Member*

This fee is necessary to offset costs incurred by the Board to process a notification application for postgraduate training or faculty member.

The Board receives the application and supporting documents, reviews for completeness, contacts the applicant to request any missing information or documents, or both, confirms the status of the applicant's license in another state or foreign education, if applicable, and issues a letter of authorization, or discrepancy notice, as appropriate.

*G. Description of Proposed Amendments*

A \$20 fee would be established for Board authorization to perform radiologic procedures under the direct supervision of a dentist. A \$25 fee is proposed to issue an approval of training.

*H. 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. The Board solicited predraft comments from 133 dental organizations, schools and individuals on July 18, 2001.

*I. Fiscal Impact and Paperwork Requirements*

The proposed rulemaking 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.

*J. Sunset Date*

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

*K. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 27, 2001, the Board submitted a copy of this proposed rulemaking to the House Professional Licensure Committee, the Senate Consumer Protection and Professional Licensure Committee and IRRC. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days after the expiration of the Committees' review period. The notification shall specify detailed procedures for review, prior to final publication of the regulation, by the Board, the General Assembly and the Governor, of objections raised.

*L. Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendment to Lisa Burns, Administrator, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-4611 (Application Fees), when submitting comments.

NORBERT O. GANNON, D.D.S.,  
Chairperson

**Fiscal Note:** 16A-4611. 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 33. STATE BOARD OF DENTISTRY**

**Subchapter A. GENERAL PROVISIONS**

**§ 33.3. Fees.**

Following is the schedule of fees charged by the Board:

\* \* \* \* \*

|  |      |
|--|------|
| Application fee—dental radiology authorization .....                   | \$20 |
| Notification application—postgraduate training or faculty member ..... | \$25 |

[Pa.B. Doc. No. 01-1838. Filed for public inspection October 12, 2001, 9:00 a.m.]

## FEE REPORT FORM

**Agency:** State - BPOA

**Date:** November 8, 2000

**Contact:** David Williams

**Phone No.** 783-7194

### Fee Title, Rate and Estimated Collections:

**Application Fee for Dental Radiology Authorization: \$20.00**

Estimated Biennial Revenue: \$60,000.00 (3,000 applications x \$20.00)

### Fee Description:

The fee will be charged to every applicant for authorization to perform radiologic procedures under the direct supervision of a dentist.

### Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Dentistry to process a request for authorization to perform radiologic procedures under the direct supervision of a dentist and (2) defray a portion of the Board's administrative overhead.

### Fee-Related Activities and Costs:

|                               |                       |              |
|-------------------------------|-----------------------|--------------|
| Averaged Administrative Ovhd: |                       | <u>17.24</u> |
|                               | Total Estimated Cost: | \$17.24      |
|                               | Proposed Fee:         | \$20.00      |

### Analysis, Comment, and Recommendation:

It is recommended that a fee of \$20.00 be established to process a request for authorization to perform radiologic procedures under the direct supervision of a dentist.

**Board Staff:** Applicants apply to and are examined by a professional testing contractor. Candidates who pass the examination are reported to the Bureau by the contractor. This information is entered into the Bureau's database and an authorization letter is issued to the applicant. The information must be maintained in the database perpetually, for informational purposes and also for providing duplication authorization letters upon request. This fee is the only contribution applicants make to the operational expenses of the State Board of Dentistry since the authorization is not subject to renewal. The administrative overhead charge assessed has been averaged for the boards offering the radiology examination.

# FEE REPORT FORM

**Agency:** State - BPOA

**Date:** 11/08/00

**Contact:** David Williams

**Phone No.** 783-7194

## Fee Title, Rate and Estimated Collections:

Notification Application-Postgraduate Training (or) Faculty Member: \$25.00  
Estimated Biennial Revenue: \$7,500.00 (300 applications x \$25.00)

## Fee Description:

The fee will be charged to every applicant who files notification of postgraduate training or faculty member notification.

## Fee Objective:

The fee should offset the identifiable costs incurred by the State Board of Dentistry to review and process a notification application for postgraduate training or faculty member and (2) defray a portion of the Board's administrative overhead.

## Fee-Related Activities and Costs:

|                                   |                       |             |
|-----------------------------------|-----------------------|-------------|
| Board Staff - process application | (0.50)                | 15.54       |
| Administrative Overhead:          |                       | <u>8.88</u> |
|                                   | Total Estimated Cost: | \$24.42     |
|                                   | Proposed Fee:         | \$25.00     |

## Analysis, Comment, and Recommendation:

It is recommended that a fee of \$25.00 be established for processing a notification application for postgraduate training or faculty member..

**Page 2 Notification Application-Postgraduate Training or Faculty Member: Date: 11/08/00**

**Board staff:** Receives application and supporting documents, reviews for completeness, contacts applicant to request any missing information and/or documents. Confirms status of license in another state or foreign education, if applicable. Issues letter of authorization or discrepancy notice, as appropriate.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

2003 NOV 12 PM 12:01

INDEPENDENT AGENCY  
REVIEW COMMISSION

# 2222

DO NOT WRITE IN THIS SPACE

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

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

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

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

STATE BOARD OF DENTISTRY  
(AGENCY)

BY: *John V. Turner*

DOCUMENT/FISCAL NOTE NO. 16A-4611

11/5/03

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

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

DATE OF APPROVAL

BY: *Veasey B. Cullen, Jr.*  
Veasey B. Cullen, Jr. D.M.D.

(Deputy General Counsel  
~~Chief Counsel,~~  
~~Independent Agency~~  
(Strike inapplicable title)

TITLE: Chairman  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] Check if applicable  
Copy not approved.  
Objections attached.

[ ] 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 DENTISTRY  
49 Pa. Code, Chapter 33  
  
APPLICATION FEES



The State Board of Dentistry (Board) hereby amends § 33.3 (relating to fees) by revising certain application fees as set forth in Annex A.

**A. Effective Date**

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

**B. Statutory Authority**

The amendment is authorized under Section 4(b) of the Dental Law (law) (63 P.S. § 123(b)).

**C. Background and Purpose**

The law 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 for services that 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 to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

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

The analysis, with regard to the Dental Board, determined that there are currently no fees for two services, which does not support the actual cost of providing those services: application for dental radiology authorization and notification application – postgraduate training or faculty member.

Section 11.4 of the law (63 P.S. § 130e), provides that no auxiliary personnel may perform radiologic procedures unless under the direct supervision of the dentist who is on the premises at the time that the X-ray is taken, and unless the person has passed the radiologic examination. Section 33.302 (relating to auxiliary personnel performing radiologic procedures) implements these provisions. Persons who have passed the Board approved dental radiologic procedure examination

file an application requesting authorization to perform those radiologic procedures under the direct supervision of a dentist. A letter of authorization is issued by the Board.

Section 2(d) of the law (63 P.S. § 121(d)), allows dentists who are licensed in another state or country to practice without Pennsylvania licensure in this Commonwealth for the limited purpose of teaching, including clinical teaching, in a dental school or advanced dental education program in this Commonwealth approved by the Board after notification to the Board and in accordance with Board regulations. Section 2(f) of the law (63 P.S. § 121(f)), also allows the practice of dentistry without a license by persons in a dental clinic operated not for profit during the duration of an internship, residency or other approved graduate training program, by persons with the required education for admission into the program, and after notification to the Board.

In this amendment fees for the services identified previously would be adjusted to allocate costs to those who use the service or make application. The Board would continue to apportion enforcement and operating costs to the general licensing population by means of its license renewal fee through the biennial reconciliation of revenue and expenditures.

#### **D. Description of Services**

##### **Application Fee for Dental Radiology Authorization**

This fee is necessary to offset costs incurred by the Board to process a request for authorization to perform radiologic procedures under the direct supervision of a dentist.

Applicants apply to and are examined by a professional testing contractor. Candidates who pass the examination are reported to the Bureau by the contractor. This information is entered into the Bureau's database and an authorization letter is issued to the applicant. The information must be maintained in the database perpetually, for informational purposes and also for providing duplicate authorization letters upon request. This fee is the only contribution applicants make to the operational expenses of the Board since the authorization is not subject to renewal. The administrative overhead charge has been averaged for the boards offering the radiology examination.

##### **Notification Application – Postgraduate Training or Faculty Member**

This fee is necessary to offset costs incurred by the Board to process a notification application for postgraduate training or faculty member.

The Board receives the application and supporting documents, reviews for completeness, contacts the applicant to request any missing information or documents, or both, confirms the status of the applicant's license in another state or foreign education, if applicable, and issues a letter of authorization, or discrepancy notice, as appropriate.

**E. Comment and 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 31 Pa. B. 5714 (October 13, 2001), to the Independent Regulatory Review Commission (IRRC), and to the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

Publication of the Notice of Proposed Rulemaking was followed by a 30-day public comment period during which the Board received no public comments. However, three public comments were received during the pre-draft stage supporting the new fees. No comments were received from IRRC, HPLC or SCP/PLC.

In preparing the final-form regulation, the Board has considered all comments received.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(d)), this final-form regulation was (deemed) approved by the HPLC and the SCP/PLC on \_\_\_\_\_, 2003. IRRC met on \_\_\_\_\_, 2003 and (deemed) approved the regulation in accordance with section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

**F. Compliance with Executive Order 1996-1**

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating this amendment, the Board considered the least restrictive alternative to regulate costs for services requested by licensees. The Board solicited predraft comments from 133 dental organizations, schools and individuals on July 18, 2001. The Board further considered the purpose and likely impact of this regulation on the public and the regulated community.

**G. Fiscal Impact and Paperwork Requirements**

The amendment will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest impact on those members of the private sector who apply for services from the Board. The amendment will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

**H. Sunset Date**

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

**I. Contact Person**

Further information may be obtained by contacting Lisa Burns, Board Administrator, State Board of Dentistry, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 (liburns@state.pa.us).

**J. Findings**

The State Board of Dentistry finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201-1202) 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) This final rulemaking does not enlarge the purpose of proposed rulemaking published at 31 Pa. B. 5714.
- (4) This amendment is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

**K. Order**

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

- (a) The regulations of the Board at 49 Pa. Code § 33.3 are amended 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*.

---

Veasey B. Cullen, Jr., D.M.D.  
Chairman

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
CHAPTER 7. STATE BOARD OF DENTISTRY**

**FEES**

**§ 33.3. Fees.**

Following is the schedule of fees charged by the Board:

\*\*\*

|   |             |
|---|-------------|
| <u>Application Fee – dental radiology authorization</u> .....                   | <u>\$20</u> |
| <u>Notification application – postgraduate training or faculty member</u> ..... | <u>\$25</u> |



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
**STATE BOARD OF DENTISTRY**  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7162

November 12, 2003

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 Dentistry  
16A-4611 APPLICATION FEES

Dear Chairman McGinley:

Enclosed is a copy of a final regulation of the State Board of Dentistry pertaining to application fees.

This regulation package was first submitted to the Committees and the Independent Regulatory Review Commission on September 27, 2001. The proposed regulations were published in the Pennsylvania Bulletin on October 13, 2001, 31 Pa. B. 5714.

The State Board of Dentistry, as always, will be pleased to provide whatever information the Committee may require during the course of its review of this regulation.

Sincerely,

Veasey B. Cullen, Jr., D.M.D., Chairman  
State Board of Dentistry

VBC:DBE:apm

Enclosure

c: Andrew Sislo, Chief Counsel  
Department of State  
Scott J. Messing, Deputy Commissioner  
Bureau of Professional and Occupational Affairs  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Herbert Abramson, Senior Counsel in Charge  
Legal Office, Counsel Division  
Deborah B. Eskin, Counsel  
State Board of Dentistry  
State Board of Dentistry

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

RECEIVED

2003 NOV 12 PM 12:01

INDEPENDENT REGULATORY  
REVIEW COMMISSION

I.D. NUMBER: 16A-4611  
SUBJECT: Application Fees  
AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

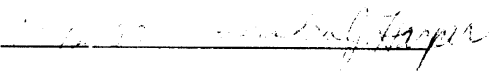

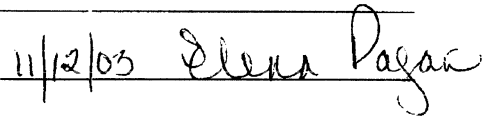
120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions b. Without Revisions

FILING OF REGULATION

| DATE     | SIGNATURE   | DESIGNATION   |
|----------|---|---|
|          |  | HOUSE COMMITTEE ON PROFESSIONAL LICENSURE                           |
|          |   |   |
| 11/12/03 |  | SENATE COMMITTEE ON CONSUMER PROTECTION &<br>PROFESSIONAL LICENSURE |
|          |   |   |
| 11/12/03 |  | INDEPENDENT REGULATORY REVIEW COMMISSION                            |
|          |   | ATTORNEY GENERAL (for Final Omitted only)                           |
|          |   | LEGISLATIVE REFERENCE BUREAU (for Proposed only)                    |

November 5, 2003