

Regulatory Analysis Form		This space for use by IRRC IRRC Number: 2251	
(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Podiatry			
(2) I.D. Number (Governor's Office Use) 16A-445		IRRC Number: 2251	
(3) Short Title Biennial Renewal Fees			
(4) PA Code Cite 49 Pa. Code § 29.13		(5) Agency Contacts & Telephone Numbers Primary Contact: Roberta L. Silver, Assistant Counsel Bureau of Professional and Occupational Affairs State Board of Podiatry 717-783-7200 Secondary Contact: Joyce McKeever, Deputy Chief Counsel 717-783-7200	
(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The proposed regulation would amend the biennial renewal fee for podiatrists. The new fee is needed because the current fee, established in 1992, no longer reflects the cost of sustaining the Board's operations over a two-year period and meeting its minimum enforcement efforts.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The regulatory amendments are adopted under Section 14 of the Podiatry Practice Act, Act of December 20, 1985, P.L. 384, No. 107, as amended, 63 P.S. § 42.14.			

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(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 as specified in Section 14 of the Podiatry Practice Act, Act of December 20, 1985, P.L. 384, No. 107, as amended, 63 P.S. §42.14.

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

At the close of FY 2001-2002, the Board projects a deficit of approximately \$22,000. The Board estimates that it must generate revenues of about \$556,000 in order to meet its anticipated expenditures for the 2002-2004 biennial period.

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

Nonregulation would adversely impact the fiscal integrity of the Board given the current deficit.

(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 general licensing population of 1331 active licensees will benefit by having the costs of regulation directly borne by licensees who use the services of the Board. Both recipients of podiatric services in the Commonwealth and the licensing population will benefit by having adequate funding for the Board to regulate the profession to insure that the appropriate standards of professional competence and integrity are maintained. The Board would have the fiscal integrity to carry on its mandate of issuing licenses, regulating the profession and protecting consumers.

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(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 not identified any group of individuals or entities who will be adversely affected by the regulation.

(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.)

All licensees seeking biennial renewal will be required to comply with this regulation. The Board anticipates 1331 licensees will renew their licenses.

(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.

In developing and drafting the regulation, the Board considered the fee as both required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

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

The Board estimates that 1331 licensees will renew their licenses. Total aggregate additional cost for the regulated community for a biennial period is approximately \$526,000. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.

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(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 will 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 renewing licenses.

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(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 7/1/01	FY +1 7/1/02	FY +2 7/1/03	FY +3 7/1/04	FY +4 7/1/05	FY +5 7/1/06
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community	0	525,745	0	525,745	0	525,745
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
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 who will avail themselves of the specified services over a fiscal year (one-half biennium) period multiplied by the savings or additional costs to the applicant for services:

Biennial renewal

$$1,331 \text{ renewals} \times \$395.00 = \$525,745$$

Regulatory Analysis Form

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

Program	FY -3 FY 97-98	FY -2 FY 98-99	FY -1 FY 99-00	Current FY FY 00-01
See attached fee report forms.	\$142,893.81	\$158,000.00	\$159,167.21	\$190,000.00

(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 Board will be able to recover the costs of its biennial expenditures.

(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.

There are no federal licensure standards.

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

This regulation does not put Pennsylvania licensees at a competitive disadvantage with other states. The following is a comparison of the fees charged in neighboring states (also, please see attached chart):

Maryland	\$750
Ohio	\$305
New York	\$210 (triennial)
New Jersey	\$250
Delaware	Not available

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

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

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

The Board reviews regulatory proposals at regularly scheduled bi-monthly public meetings. However, in light of the statutory mandate, the Board has not scheduled 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, 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 applicants or licensees for whom special accommodations should be made.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication as 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.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

#2251

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.

David T. Johnston
BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Podiatry

(AGENCY)

John V. Turner
BY: _____
(Deputy General Counsel, Chief Counsel, Independent Agency (Strike inapplicable title))

DEC 28 2001

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-445

DATE OF ADOPTION:

BY: *Jeffrey S. Gerland*
Jeffrey S. Gerland, D.R.M.

12/14/01
DATE OF APPROVAL

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

[] Check if applicable. No Attorney General approval or objection within 30 day after submission.

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

The State Board of Podiatry (Board) proposes to amend 49 Pa. Code § 29.13 (relating to fees), by raising the biennial renewal fee for podiatrists as set forth in Annex A.

A. Effective Date

The amendment will be effective upon publication of the final form regulation. The new fee will take effect January 1, 2003.

B. Statutory Authority

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

C. Background and Purpose

Section 14(a) of the Act, 63 P.S. § 42.14(a), requires the Board to increase fees by regulation if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a two-year period. In addition, Section 14(b) of the Act, 63 P.S. § 42.14(b), requires the Board to increase fees by regulation in the amount that adequate revenues are raised to meet the required enforcement efforts, when the fees established by the Board are inadequate to meet the minimum enforcement efforts required by the Act.

The Board last increased its biennial renewal fees on December 26, 1992. The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties. The Podiatry Practice Act mandates that the Board protect the public by adopting rules and regulations that govern the practice of podiatry. In addition, the Board is generally mandated to promote public health, safety and welfare, which is accomplished through Board initiatives and coordination with other agencies and departments in the Commonwealth.

The Board raises virtually all its revenue through fees. The biennial license renewal fee is the most substantial revenue generating fee of the fees charged by the Board. If the Board anticipates that its revenue will not meet its expenditures, the Board must increase its revenue.

At its May 28, 2001, Board meeting, the Board reviewed a summary of the Board's revenues and expenses. The summary, prepared by the BPOA Revenue Office and the Bureau of Finance and Operations and presented in the format below, shows that the Board must raise the biennial renewal fee to meet or exceed projected expenditures and thereby comply with Section 14(a) and (b) of the Podiatry Practice Act.

Financial Status	Actual FY99-00	Projected FY00-01	Projected FY01-02	Projected FY02-03	Projected FY03-04	Projected FY04-05	Projected FY05-06
Beginning Balance	265,847.48	119,757.48	180,465.27	(21,534.73)	5,340.27	(208,659.73)	(195,784.73)
Revenue	14,910.00	248,875.00	15,000.00	248,875.00	15,000.00	248,875.00	15,000.00
Prior Yr. Returned Funds	0.00	1,832.79 *	0.00	0.00	0.00	0.00	0.00
Total Revenue	280,757.48	370,465.27	195,465.27	227,340.27	20,340.27	40,215.27	(180,784.73)
Expenses	161,000.00	190,000.00	217,000.00	222,000.00	229,000.00	236,000.00	243,000.00
Remaining Balance	119,757.48	180,465.27	(21,534.73)	5,340.27	(208,659.73)	(195,784.73)	(423,784.73)

***Estimated**

As the foregoing indicates, a deficit of approximately \$22,000 is projected at fiscal year ending June 30, 2002. The Board must generate revenues of about \$556,000 in order to meet its anticipated expenditures through FY 2001-2002 in addition to recovering the anticipated deficit. The Board proposes to recover that deficit during the 2003-2005 biennial period. The Board anticipates that the proposed new fees and the increased user fees which are being promulgated separately would enable it to recapture the current deficit, meet its estimated expenditures for the FY 2003-2005 biennial cycle and generate a surplus of approximately \$83,000 at the end of the 2003-2005 biennial period.

If the biennial fee is not increased, the Department anticipates that a significant deficit will occur during FY 2003-2004. This deficit is compounded and more critical since this Board fiscally stands on its own and is not contained within the Professional Licensure Augmentation Account (PLAA). Since this Board is not a part of the PLAA, it cannot utilize any fiscal backing to carry it through budget shortfalls. Therefore, any budget shortfall will stop operations of this Board until a positive balance is maintained.

D. Description of Proposed Amendments

The following table outlines the affected fee and proposed change:

<u>Application</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Biennial renewal fee	\$175.00	\$395.00

E. Compliance with Executive Order 1996-1

In compliance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation, the Board considered the regulation as both required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

F. Fiscal Impact and Paperwork Requirements

The proposed amendment would increase the biennial renewal fee for podiatrists in the Commonwealth, but, otherwise, should have no fiscal impact on the private sector, the general public or political subdivisions.

The proposed amendment would require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed amendments should create no additional paperwork for the private sector.

G. Sunset Date

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

H. Regulatory Review

Pursuant to Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of this proposed regulation on January 31, 2002 to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC), and the House Professional Licensure Committee (HPLC). In addition to submitting the proposed rulemaking, the Board has provided IRRC, SCP/PLC, and HPLC 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 (71 P.S. § 745.5(g)), if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the SCP/PLC and HPLC review period. The notification shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review of objections by the Board, the General Assembly, and the Governor prior to publication of the regulations.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Gina Bittner, Board Administrator, State Board of Podiatry, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, (gbittner@state.pa.us), within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Jeffrey S. Gerland, D.P.M.
Chairman, State Board of Podiatry

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

GENERAL PROVISIONS

§ 29.13. Fees.

* * *

Biennial renewal of license.....\$[175] 395

* * *

COMPARISON OF POD RENEWAL FEES.xls

FEES COMPARISON						
PODIATRY						
Bold=proposed	PA	NJ	NY	MD	OH	DE
Renewal (biennial)		250	210(tri)	750	305	
Unable to contact DE for information about Pod. 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: 12/13/2001

Contact: David Williams

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Podiatry Biennial Renewal Fee: \$395.00

Estimated Biennial Revenue: \$525,745.00 (1,331 renewals x \$395.00)

Fee Description:

The fee will be charged biennially to every applicant for license renewal.

Fee Objective:

The fee should defray a substantial portion of the State Board of Podiatry's administrative overhead, specifically the difference between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.

Fee-Related Activities and Costs:

Estimated balance at end of 00/01 cycle:	180,465.27
FOR BIENNIAL CYCLE 7/01/01-6/30/03	
Estimated non-renewal revenue:	30,000.00
Estimated renewal revenue @ above rates:	525,745.00
Total revenue available:	736,210.27
Estimated expenditures:	439,000.00
Estimated ending balance on 6/30/03:	297,210.27
FOR BIENNIAL CYCLE 7/01/03-6/30/05	
Estimated non-renewal revenue:	30,000.00
Estimated renewal revenue @ above rates:	525,745.00
Estimated expenditures:	465,000.00
Estimated ending balance on 6/30/05:	387,955.27

Analysis, Comment, and Recommendation:

It is recommended that a renewal fee of \$395.00 be established to cover the difference between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.



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

January 31, 2002

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Board of Podiatry
Fees: 16A-445

Dear Chairman McGinley:

Enclosed is a copy of a proposed 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. Gorland".

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

JSG/RLS:kmh

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
Department of State
Gerald S. Smith, Senior Counsel in Charge
Department of State
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-445
SUBJECT: State Board of Podiatry - Biennial Renewal Fees
AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- X 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

RECEIVED
JAN 10 2002
STATE BOARD OF PODIATRY

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
1-31-02	<i>Lou A. Clark</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
1/31/02	<i>Sammy Weaver</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
1/31/02	<i>Elena Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
1/31/02	<i>Michael P. ...</i>	LEGISLATIVE REFERENCE BUREAU

January 3, 2002