

# Regulatory Analysis Form

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(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Funeral Directors

REVIEW COMMISSION

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

16A-4811

IRRC Number: 2333

(3) Short Title

Biennial Renewal Fee

(4) PA Code Cite

49 Pa. Code § 13.12

(5) Agency Contacts & Telephone Numbers

Primary Contact: Thomas A. Blackburn, Counsel,  
State Board of Funeral Directors (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  
 Policy Statement

(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 final rule-making amends the fee schedule for the State Board of Funeral Directors to increase the biennial renewal fee. The current fee has not been revised since 1992.

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

The regulatory amendments are adopted under Section 18.1 of the Funeral Director Law, act of January 14, 1952 (P.L. 1951-1898) as amended, 63 P.S. § 479.18.1.

(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. If revenues generated by fees, together with civil penalties imposed and collected, are not sufficient to match expenditures of a two-year period, Section 18.1 of the Funeral Director Law requires the Board to increase its fees by regulation such that projected revenues will meet or exceed projected expenditures.

## Regulatory Analysis Form

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

**Section 18.1 of the Funeral Director Law (63 P.S. § 479.18.1) requires that the Board set fees by regulation so that revenues meet or exceed expenditures over a biennial period. The Board has recently revised its fees for services to recover the cost of providing those services. The balance of the operating expenses of the Board must be borne by the licensee population through biennial renewal revenue.**

(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 the renewal fee is not revised, the Board may be financially unable to meet its statutory obligation of public protection.**

(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 public and licensees will benefit from the regulation through the assurance that the Board will remain fiscally sound and able to meet its statutory obligation of public protection.**

(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.)

**Licensees of the Board will be adversely affected by the regulation by having to pay a higher biennial license renewal fee.**

(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.)

**There are approximately 6510 licensees, whether individual funeral director, funeral supervisor, or funeral home entity. Each licensee will be required to comply with the regulation.**

## Regulatory Analysis Form

(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.

**Because this amendment does not place requirements on licensees concerning their conduct or compliance with state law regarding the performance of a licensing duty under licensing statutes, but only adjusts the biennial renewal fee, the Board did not seek input from the regulated community.**

(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 the aggregate additional costs for the regulated community will be approximately \$358,050 per biennial renewal period. The Board estimates that there will be no other costs or savings to the regulated community associated with compliance with this regulation.**

(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.

**There are no costs or savings to local governments associated with compliance with the proposed 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.

**There are no costs or savings to state government associated with implementation of the proposed regulation.**

(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
SAVINGS:	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community	\$358,050		\$358,050		\$358,050	

## Regulatory Analysis Form

Local Government						
State Government						
Total Costs	\$358,050		\$358,050		\$358,050	
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(20a) Explain how the cost estimates listed above were derived.

**The biennial renewal fee for each license would increase by \$55, from the current \$130 to the proposed \$185. There are approximately 6510 licensees.**

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

Program	FY-3 (FY 00-01)	FY-2 (FY 01-02)	FY-1 (FY 02-03)	Current FY (FY 03-04)
Pa. State Board of Funeral Dir.	\$524,000	\$506,000	\$525,000	\$609,000

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

**Because the Board is required by statute to raise its fees to match expenditures, the need to assure fiscal integrity of the Board outweighs the increased cost to the regulated community.**

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

**Because the Act requires the Board to promulgate regulations to set its fees, the Board considered no nonregulatory alternatives.**

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

**As suggested by a commentator, the Board considered a graduated increase in the renewal fee. However, because the fee increase is relatively modest and the cost to implement a graduated increase would necessarily increase, the Board rejected this alternative.**

## **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.

**The proposed regulatory amendments do not overlap or conflict with any federal requirements.**

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

**Each state licensing agency charges a renewal fee. Maryland charges \$300 for biennial renewal of individual mortician, funeral director, and surviving spouse licenses, and \$400 for biennial renewal of funeral establishment licenses. New Jersey charges \$170 for biennial renewal of individual practitioner, embalmer, and funeral director licenses, and \$350 for biennial renewal of mortuary registrations. New York charges \$50 for biennial renewal of funeral director licenses and \$150 for biennial renewal of funeral firm licenses. Ohio charges \$120 for biennial renewal of embalmer or funeral director licenses and \$250 for biennial renewal of funeral home licenses. West Virginia charges \$30 for annual renewal of embalmer and funeral director licenses and \$125 for annual renewal of funeral establishment licenses.**

**The proposed fee is consistent with fees charged by surrounding states. The proposed regulation will not put Pennsylvania at a competitive disadvantage with these other states.**

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

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

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

**The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the first Wednesday of each month, at 2601 North Third Street in Harrisburg. More information can be found on the Board's web-site (professional licensing link from the Department of State page, <http://www.dos.state.pa/bpoa>), or by calling the Board office at (717) 783-3397.**

## **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.

**The Board will revise its renewal applications to reflect the new renewal fee. No other change to reporting, recordkeeping or other paperwork is required by this regulation.**

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

**The Board has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.**

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

**The regulation will be effective upon publication in final form in the *Pennsylvania Bulletin*, for renewals beginning with the 2004-2006 biennial renewal period.**

(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.**

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(3) Move about or relocate during that portion of the archery deer season that is concurrent with any [ flintlock muzzleloading ] firearms deer season (antlerless only) that precedes the regular firearms season for deer or is concurrent with the fall turkey season without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material. The material shall be worn on the head, chest and back combined so it is visible in a 360° arc.

(4) Be on stand and stationary during that portion of the archery deer season that is concurrent with any [ flintlock muzzleloading ] firearms deer season (antlerless only) that precedes the regular firearms season for deer or is concurrent with the fall turkey season without placing a band containing a minimum of 100 square inches of daylight fluorescent orange-colored material, in lieu of the required 250 square inches, within 15 feet of their location so it is visible in a 360° arc.

\* \* \* \* \*

(d) Prohibitions. While hunting deer during the flintlock muzzleloading season it is unlawful to:

\* \* \* \* \*

[ (5) Hunt for or assist to hunt for deer during any flintlock muzzleloading season that precedes the regular firearms season for deer without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so that it is visible in a 360° arc. ]

\* \* \* \* \*

CHAPTER 143. HUNTING AND FURTAKER LICENSES

Subchapter E. FLINTLOCK (MUZZLELOADER) DEER LICENSES

§ 143.84. Application.

(a) Application may be made when purchasing a regular hunting license, or any time prior to [ August 31 ]

November 15, upon presentation of the regular hunting license.

\* \* \* \* \*

[Pa.B. Doc. No. 03-448. Filed for public inspection March 14, 2003, 9:00 a.m.]

STATE BOARD OF FUNERAL DIRECTORS

[49 PA. CODE CH. 13]

Renewal Fee

The State Board of Funeral Directors (Board) proposes to amend § 13.12 (relating to fees) by raising the biennial renewal fee to read as set forth in Annex A.

Effective date

The proposed rulemaking will be effective upon final-form publication in the Pennsylvania Bulletin, beginning with renewal for the 2004-2006 biennial renewal period.

Statutory Authority

The proposed amendment is authorized under section 18.1 of the Funeral Director Law (act) (63 P.S. § 479.18.1).

Background and Need for the Amendment

The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties and to periodically review its expenditures and revenue streams to assure that revenues meet or exceed expenses. The Board was last required to increase its biennial renewal fees in 1992.

At its March 6, 2002, meeting, the Board reviewed the following summary of its revenues and expenses prepared by the Bureau of Professional and Occupational Affairs Revenue Office and the Bureau of Finance and Operations.

Financial Status	Actual FY 00-01	Projected FY 01-02	Projected FY 02-03	Projected FY 03-04	Projected FY 04-05	Projected FY 05-06	Projected FY 06-07
Beginning Balance	579,991	127,741	375,402	(25,656)	274,990	(232,810)	33,836
Revenue	71,750	841,646	49,200	841,646	49,200	841,646	49,200
Prior Year Returned Funds	0	0	74,742	0	0	0	0
Funds Available	651,741	969,387	499,344	815,990	324,190	608,836	83,036
Prior Year Expense	0	87,986	0	0	0	0	0
Expenses	524,000	506,000	525,000	541,000	557,000	575,000	592,000
Remaining Balance	127,741	375,402	(25,656)	274,990	(232,810)	33,836	(508,964)

As the chart indicates, a deficit of almost \$26,000 is projected at fiscal year ending June 30, 2003, a deficit of over \$230,000 is projected at fiscal year ending June 30,

2005, and a deficit of over \$500,000 is projected at fiscal year ending June 30, 2007. The Board must generate revenues of about \$1.1 million to meet its anticipated

expenditures in fiscal years 2003-04 and 2004-05, in addition to recovering the anticipated deficit of June 30, 2003.

The Board raises virtually all its revenues through fees. The biennial license renewal fee is the most substantial revenue-generating fee of the fees charged by the Board. Section 18.1(a) of the act 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 2-year period.

The Board proposes to begin recovering that deficit during the 2004-06 biennial period. The Board anticipates that the proposed new fees and the increased user fees which have recently been promulgated would enable it to recapture the current deficit, meet its estimated expenditures for the upcoming fiscal years and generate a surplus of approximately \$160,000 at the end of fiscal year 2004-05.

*Description of the Proposed Rulemaking*

Section 13.12 would be amended to increase the biennial renewal fee from \$130 to \$185.

*Fiscal Impact and Paperwork Requirements*

The proposed rulemaking would increase the biennial renewal fee for funeral directors and funeral establishments in this Commonwealth, but, otherwise, should have no adverse fiscal impact on the Commonwealth, its political subdivisions or the private sector. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

*Sunset Date*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 5, 2003, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. 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. 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 rulemaking, it will notify the Board within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of objections raised.

*Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Michelle DeMerice, Administrative Officer, State Board of Funeral Directors, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Reference No. 16A-4811 (renewal fee), when submitting comments.

JAMES O. PINKERTON, FD,  
*Chairperson*

**Fiscal Note:** 16A-4811. 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 13. STATE BOARD OF FUNERAL DIRECTORS LICENSURE**

**§ 13.12. Fees.**

Following is the schedule of fees charged by the Board:

* * * * *	
Biennial renewal	\$ [ 130 ] 185
<small>(Pa.B. Doc. No. 03-449. Filed for public inspection March 14, 2003, 9:00 a.m.)</small>	

**STATE BOARD OF VETERINARY MEDICINE**

[49 PA. CODE CH. 31]

**Continuing Education Provider Approval**

The State Board of Veterinary Medicine (Board) proposes to amend §§ 31.16 and 31.40 (relating to continuing education provider approval) to read as set forth in Annex A. The proposed rulemaking adds providers approved by the American Association of Veterinary State Boards (AAVSB) and included on the Registry of Approved Continuing Education (RACE) to the list of continuing education providers who are preapproved to offer courses for credit toward the biennial continuing education requirements for veterinarians and animal health technicians.

*Effective Date*

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

*Statutory Authority*

Section 18 of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.18) authorizes the Board to approve all continuing education programs and to promulgate standards to ensure that the programs meet the educational and professional requirements of the profession and are designed to keep the members of the profession abreast of current learning and scholarship.

Section 5(2) of the act (63 P. S. § 485.5(2)) authorizes the Board to promulgate regulations to effectuate the act. Section 11 of the act (63 P. S. § 485.11) authorizes the Board to promulgate regulations related to the practice of veterinary technicians.

*Background and Need for Proposed Rulemaking*

The AAVSB asked the Board to consider adding providers who are approved by the AAVSB and listed on the



# FEE REPORT FORM

Agency: State - BPOA  
Contact: Scott J. Messing  
Phone No. 783-7194

Date: 7/17/2003

## Fee Title, Rate and Estimated Collections:

Fee for all Funeral Licenses Subject to Biennial Renewal: \$185.00

Estimated Biennial Revenue: \$1,204,350.00 (6,510 renewals x \$185.00)

## 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 Funeral Director'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:

Projected Deficit as of 6/30/03:	(25,655.86)
Estimated non-renewal revenue:	14,000.00
Estimated renewal revenue @ above rates:	1,204,350.00
Total revenue available:	1,192,694.14
Estimated expenditures:	541,000.00
Estimated ending balance on 6/30/04:	<u>651,694.14</u>
Estimated revenue 7/01/04-6/30/05:	64,200.00
Estimated expenditures 7/01/04-6/30/05:	557,000.00
Estimated ending balance on 6/30/05:	<u>158,894.14</u>
Estimated revenue 7/01/05-6/30/06:	1,218,341.00
Estimated expenditures 7/01/05-6/30/06:	575,000.00
Estimated ending balance on 6/30/06:	<u>802,235.14</u>

## Analysis, Comment, and Recommendation:

It is recommended that a renewal fee of \$185.00 be established to cover the difference between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.



JOHN R. MCCOINLEY, JR., ESQ., CHAIRMAN  
ALVIN C. BUSH, VICE CHAIRMAN  
ARTHUR D. GODFREY  
ROBERT J. HARRISON, III  
MURRAY L. BERBERG, ESQ.  
ROBERT E. NYCE, EXECUTIVE DIRECTOR  
MARY S. WAATLE, CHIEF COUNSEL

**INDEPENDENT REGULATORY REVIEW COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
333 MARKET STREET  
14TH FLOOR  
HARRISBURG, PA 17101**

[irrc@irrc.state.pa.us](http://www.irrc.state.pa.us)  
<http://www.irrc.state.pa.us>  
**(717) 783-5417**  
**Fax (717) 783-2664**

May 14, 2003

James O. Pinkerton, Chairman  
State Board of Funeral Directors  
2601 North 3<sup>rd</sup> Street  
Harrisburg, PA 17110

Re: Regulation #16A-4811 (IRRC #2333)  
State Board of Funeral Directors  
Renewal Fee

Dear Chairman Pinkerton:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The Comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce  
Executive Director  
wbg  
Enclosure

cc: Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee  
Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Pedro A. Cortes, Secretary, Department of State

**Comments of the Independent Regulatory Review Commission**

**on**

**State Board of Funeral Directors Regulation No. 16A-4811**

**Renewal Fee**

**May 14, 2003**

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Funeral Directors (Board) must respond to these comments when it submits the final-form regulation. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

**1. General. – Fiscal impact; Reasonableness; Clarity.**

The Board provided a revenue breakdown by source and an itemized breakdown of the Board's actual expenditures for FY 1999-2000 and projected expenditures for FY 2000-2001. In order to evaluate this regulation, we must determine whether the criteria set forth in the Regulatory Review Act are satisfied. Therefore, we need additional information from the Board to measure the reasonableness of the proposed licensure increase. We request that the Board provide us with historical and projected cost data for FY 2000-2001 through FY 2007-2008, which should be included in the Regulatory Analysis Form.



April 21, 2003

Ms. Michelle DeMerice  
Administrative Officer  
State Board of Funeral Directors  
PO Box 2649  
Harrisburg, PA 17105-2649

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17105-2649

Re: Reference No. 16A-4811 (Renewal Fee)

Dear Ms. DeMerice:

The Pennsylvania Funeral Directors Association would like to comment on the proposed increase in biennial license renewal fees for funeral directors in Pennsylvania, as published in the Pennsylvania Bulletin Document No. 03-449.

The proposed increase from \$130 to \$185 – more than 42 percent – is substantial and should be closely examined.

The majority of funeral directors in Pennsylvania operates small businesses that directly feel the impact of such decisions. In the current economic climate, they are working harder than ever to control their costs. They cannot continue to work without current licenses, yet the cost of the license renewal is beyond their control.

We understand that this is the first increase since 1992. Our suggestion is that a smaller incremental increase over a period of several license renewal cycles would be helpful to our members.

A representative of the Pennsylvania Funeral Directors Association can be available to discuss our position in this regard at the convenience at the State Board of Funeral Directors.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Eirkson".

John W. Eirkson  
Executive Director

JWE/cnh

cc: PFDA Board Members

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

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INDEPENDENT AGENCIES  
REVIEW COMMISSION

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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.

State Board of Funeral Directors

(AGENCY)

BY:  
(DEPUTY ATTORNEY GENERAL)

DOCUMENT/FISCAL NOTE NO. 16A-4811

BY: *John V. Tom*  
10/10/03  
DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION:

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

BY: *James O. Pinkerton*  
James O. Pinkerton, FD

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

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

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF FUNERAL DIRECTORS

49 Pa. Code §§ 13.12  
Renewal Fee

The State Board of Funeral Directors (Board) amends its regulations at 49 Pa. Code § 13.12 (relating to fees) to read as set forth in Annex A.

#### Description and Need for Proposed Rulemaking

This final-form rulemaking raises the biennial renewal fee from \$130 to \$185.

The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties and to periodically review its expenditures and revenue streams to assure that revenues meet or exceed expenses. If the revenues are not sufficient to meet expenditures over a 2-year period, the Board must increase its fees by regulation. The Department of State's Bureau of Financial Operations has projected that, with the current renewal fee, the Board will have a deficit of almost \$26,000 at fiscal year ending June 30, 2003, a deficit of over \$230,000 at fiscal year ending June 30, 2005, and a deficit of over \$500,000 at fiscal year ending June 30, 2007. The Board will begin recovering that deficit during the 2004-06 biennial period. The Board anticipates that it will be able to meet its estimated expenditures for the upcoming fiscal years and generate a surplus of approximately \$160,000 at the end of fiscal year 2004-05. The Board was last required to increase its biennial renewal fees in 1992.

#### Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 33 Pa.B. 1357 (March 14, 2003) with a 30-day public comment period. The Board received comments from the Pennsylvania Funeral Directors Association (PFDA). The Board also received comments from the Independent Regulatory Review Commission (IRRC) as part of its review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1-745.12). The Board did not receive comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of their review of proposed rulemaking under the Regulatory Review Act.

PFDA commented that, because the renewal fee would increase over 40% from \$130 to \$185, the Board should consider smaller incremental increases of a period of several biennial renewal cycles. Given the temporary and relatively modest savings to licensees under such a graduated approach, as well as the cost to the Board to recreate renewal forms with the changing renewal fees and potential for confusion as to the actual fee to be paid, the Board believes that licensees would be better served by a single increase in the renewal fee at this time.

As part of its proposed rulemaking, the Board provided a table of projected revenue and expenditures and end of year balances from fiscal years 2000-01 through 2006-07. IRRC commented that, to fulfill its duty under the Regulatory Review Act to measure the reasonableness of the proposed regulation, it needed additional information. In response, the Board provides the following tables (in actual dollars) of projected expenditures by cost center and revenue by source.

<b>EXPENSE</b>	<b>Actual</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>
<b>Cost Center</b>	<b>FY 00-01</b>	<b>FY 01-02</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>
<b>BPOA</b>							
Admin.	13,297.	11,234.	10,000.	10,000.	10,000.	10,000.	10,000.
Commissioner's Office	8,001.	5,874.	9,000.	9,000.	10,000.	10,000.	10,000.
Law Enforcement	209,347.	235,012.	245,000.	252,000.	260,000.	269,000.	277,500.
Board Members	16,539.	19,233.	20,000.	21,000.	22,000.	23,000.	24,000.
Hearing Expenses	2,710.	2,079.	5,000.	5,000.	5,000.	5,000.	5,000.
Departmental Services	17,521.	21,250.	22,000.	23,000.	24,000.	25,000.	26,000.
Board Admin.	68,015.	74,239.	75,000.	77,000.	79,000.	81,000.	83,000.
Public Info. Office	1,462.	1,000.	1,000.	1,000.	1,000.	1,000.	1,000.
Legis. & Reg. Analyses	5,326.	2,433.	3,000.	3,000.	3,000.	3,000.	3,000.
Legal Office	107,039.	114,875.	135,000.	140,000.	144,000.	149,000.	153,500.
<b>TOTAL</b>	<b>449,258.</b>	<b>487,228.</b>	<b>525,000.</b>	<b>541,000.</b>	<b>557,000.</b>	<b>575,000.</b>	<b>592,000.</b>

<b>REVENUE</b>	<b>Actual</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>	<b>Projected</b>
<b>Source</b>	<b>FY 00-01</b>	<b>FY 01-02</b>	<b>FY 02-03</b>	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>
Renewals.	19,460.	797,096.	27,200.	797,096.	27,200.	797,096.	27,200.
Applications	13,265.	14,000.	14,000.	14,000.	14,000.	14,000.	14,000.
Letters of Good Standing	925.	1,050.	1,000.	1,050.	1,000.	1,050.	1,000.
Act 48	9,100.	6,500.	7,000.	6,500.	7,000.	6,500.	7,000.
Fines	29,000.	23,000.	0.	23,000.	0.	23,000.	0.
<b>TOTAL</b>	<b>71,750.</b>	<b>841,646.</b>	<b>49,200.</b>	<b>841,646.</b>	<b>49,200.</b>	<b>841,646.</b>	<b>49,200.</b>

Fiscal Impact

According to projections of the Department of State's Bureau of Financial Operations, the final-form rulemaking will generate approximately \$358,050 in additional revenue in each biennial renewal cycle as the result of increasing the renewal fee from \$130 to \$185 for each of the approximately 6,510 licensees.

### Paperwork Requirements

The final-form rulemaking will require the Board to change its biennial renewal forms to reflect the new fees. The final-form rulemaking will not create additional paperwork requirements for licensees.

### Effective date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin* and will initially apply to licensees who renew their licenses for the 2004-2006 biennial renewal period.

### Statutory Authority

Section 18.1 of the Funeral Director Law (63 P.S. § 479.18.1) requires the Board to establish fees by regulation and to increase its fees by regulation such that projected revenues will meet or exceed projected expenditures.

### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 5, 2003, the Board submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 2562, to IRRC and to the chairpersons of the SCP/PLC and the HPLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered the comments received from IRRC and the public. The Board did not receive comments from the HPLC or the SCP/PLC.

On \_\_\_\_\_, 2003, the Board submitted this final-form rulemaking to IRRC and the Committees. Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on \_\_\_\_\_, 2003, this final-form rulemaking was (deemed) approved by the HPLC, and on \_\_\_\_\_, 2003, this final-form rulemaking was (deemed) approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on \_\_\_\_\_, 2003, and approved the final rulemaking.

### Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Michelle Smey, Administrator, State Board of Funeral Directors, by mail to P. O. Box 2649, Harrisburg, PA 17105-2649, by telephone at (717) 783-3397, or by e-mail at funeral@pados.dos.state.pa.us.



Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the Commonwealth Documents Law and regulations 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) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Funeral Director Law.

Order

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

- (a) The regulations of the Board at 49 Pa. Code § 13.12 are amended to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval 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) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

James O. Pinkerton, FD  
Chairperson

**ANNEX A**

**PENNSYLVANIA ADMINISTRATIVE CODE**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS**

\* \* \*

**LICENSURE**

\* \* \*

**§ 13.12. Fees.**

Following is the schedule of fees charged by the Board:

\* \* \*

Biennial renewal .....\$ [130] 185



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF FUNERAL DIRECTORS

Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-3397

October 28, 2003

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

Re: Final Regulation  
State Board of Funeral Directors  
Renewal fee (16A-4811)

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Funeral Directors pertaining to renewal fees.

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

Sincerely,

  
James O. Pinkerton, FD, Chairperson  
State Board of Funeral Directors

JOP/TAB/kp

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  
Department of State  
Herbert Abramson, Senior Counsel in Charge  
Department of State  
Thomas A. Blackburn, Counsel  
State Board of Funeral Directors  
State Board of Funeral Directors

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

I.D. NUMBER: 16A-4811  
 SUBJECT: Renewal Fee  
 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

RECEIVED  
 2003 OCT 28 AM 11:26  
 INDEPENDENT REGULATORY REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
	<i>[Signature]</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
	<i>[Signature]</i>	
10/28/03	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
	<i>[Signature]</i>	
10/28/03	<i>Elena Page</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
	<i>[Signature]</i>	
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)