

Regulatory Analysis Form

This space for use by IRRC

2007 AUG 23 AM 11:25

REVIEW COMMISSION

(1) Agency

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

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

16A-5413

IRRC Number: 2423

(3) Short Title

Deletion of Examination Fees

(4) PA Code Cite

49 Pa. Code § 27.91

(5) Agency Contacts & Telephone Numbers

Primary Contact: Carole L. Clarke, Counsel

State Board of (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 proposed regulation deletes references to the fees for taking the NAPLEX and MPJE licensing examinations from the Board's regulations. The fees are set by the test administrator.

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

The amendments are authorized under Sections 6(k)(1) and (9), and 8.2(a) of the Pharmacy Act (act) (63 P.S. §§ 390-6(k)(1) and (9), and 390-8.2(a)) and Section 812.1 of the Administrative Code of 1929 (71 P.S. §279.3a).

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.

The regulation is not mandated by any federal or state law, court order, or federal regulation.

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

Examination fees are determined by the National Association of Boards of Pharmacy (NABP) that administers the examinations. Eliminating references to the current examination fee in the regulations will obviate the need to amend the regulations in the future should the examination fees be changed.

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

There are no specific public health, safety, environmental or general welfare risks associated with nonregulation.

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

Applicants for licensure will benefit by not having potentially conflicting sources of information relating to examination fees. The Board will benefit because the regulation will eliminate the need to make future adjustments to its regulations should the fees be changed.

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 groups or individuals 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 applicants for the NAPLEX and Pennsylvania MPJE exams are required to pay the fee set by the testing organization. This regulation does not affect the fee charged by the professional testing organization.

(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 the Board does not set the examination fees and this regulation package is only removing outdated fees from the Board's regulations, the Board did not seek input from the public in the development and drafting of the regulation.

(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.

No specific costs or savings to the regulated community are anticipated. However, the general operational costs of the Board may be reduced by eliminating the need to make future amendments to the Board's regulations.

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.

There are no anticipated costs or savings to local government associated with this regulation.

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

Because the Board's operational expenses are paid from license renewal fees, there are no anticipated costs or savings to state government associated with this regulation.

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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

N/A

Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY
Pharmacy Board	\$1,197,924.91	\$1,244,104.47	\$1,407,589.55	\$1,495,000.00

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

There are no adverse effects or costs associated with the regulation. The regulated community will benefit because the Board will not be required to make any future amendments to its regulations to conform to changing costs of the licensing examinations.

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

Because the fees are currently announced in the Board's regulations, no nonregulatory alternatives were considered.

(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.

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 standards relevant to the regulation.

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

A survey of neighboring states was taken. New York, New Jersey, Maryland, and West Virginia list examination fees by regulation. Ohio and Delaware do not list examination fees in either their respective statutes or regulations. This regulation will not put Pennsylvania at a competitive disadvantage with other states because it is simply removing outdated provisions from the Board's regulations.

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

The regulation will not affect any existing or proposed 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. The Board meets every month at 2601 North Third Street, Harrisburg and the meeting schedule can be obtained from the Department of State's website at www.dos.state.pa.us/bpoa.

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 regulation will not change any existing reporting, record keeping or other paperwork requirements.

(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 identified no particular groups or persons who will be affected by the regulation.

(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 final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The Board continuously reviews its regulations, periodically communicates with licensees through newsletters and obtains information and feedback from its licensees on a frequent basis.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

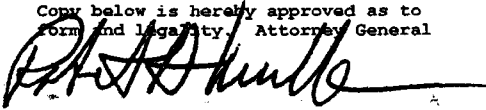
(Pursuant to Commonwealth Documents Law)

2004 AUG 23 AM 11:25

REVIEW COMMISSION

#2423

DO NOT WRITE IN THIS SPACE

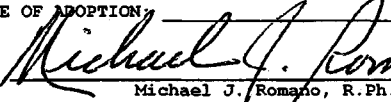
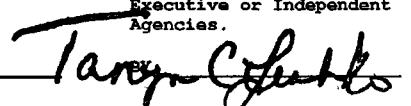
Copy below is hereby approved as to
form and legality. Attorney GeneralBY: _____
(DEPUTY ATTORNEY GENERAL)

JUN 07 2004

DATE OF APPROVAL

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated by:State Board of Pharmacy
(AGENCY)DOCUMENT/FISCAL NOTE NO. 16A-5413

DATE OF ADOPTION:

BY: 
Michael J. Romano, R.Ph.Copy below is approved as
to form and legality.
Executive or Independent
Agencies.5/5/04
DATE OF APPROVAL(Deputy General Counsel
(Chief Counsel
Independent Agency
Strike inapplicable
title)TITLE: Chairperson
(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.

PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHARMACY
49 PA. CODE, CHAPTER 27
Deletion of Examination Fees

The State Board of Pharmacy (Board) proposes to amend §27.91 (relating to schedule of fees) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The amendments are authorized under Sections 6(k)(1) and (9), and 8.2(a) of the Pharmacy Act (act) (63 P.S. §§ 390-(4)(j), 390-6(k)(1) and (9), and 390-8.2(a)) and Section 812.1 of the Administrative Code of 1929 (71 P.S. §279.3a).

Background and Purpose

The proposed amendment to §27.91 (relating to schedule of fees) deletes references to the fees for the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE). These fees are set by the administrators of the examinations, not by the Board. To avoid the necessity of amending the regulations whenever the examination administrator changes the fees, the Board proposes to delete references to the fees.

Description of Proposed Amendments

The Board proposes to amend §27.91 (relating to schedule of fees) to delete references to the fees for the NAPLEX and MPJE examinations. The fees are set by the test administrators.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1, dated February 6, 1996, the Board has considered the purpose of the rulemaking and its potential impact on the public and the regulated community. The Board has determined that amendment serves the public interest and otherwise complies with Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The proposed amendment will have no fiscal impact on the Board or its licensees. The proposed amendment should have no fiscal impact on the private sector, the general public or political subdivisions. The proposed regulation will avoid preparation of new regulations each time that an examination fee is changed and should not create additional paperwork for the private sector.

Sunset Date

The Board reviews the effectiveness of its regulations on an ongoing basis. 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 August 23, 2004, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. 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 comments, recommendations or objections raised.

Public Comment

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

Michael J. Romano, R.Ph.
Chairperson

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. Professional and Occupational Affairs

CHAPTER 27. STATE BOARD OF PHARMACY

FEES

§ 27.91. Schedule of fees.

An applicant for a license, certificate, permit or service shall pay the following fees at the time of application:

* * *

[North American Pharmacist Licensure Examination (NAPLEX).....	\$250
Multistate Pharmacy Jurisprudence Examination (MPJE).....	\$85]

* * *



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHARMACY**

**Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7156**

August 23, 2004

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 Pharmacy
16A-5413: Deletion of Examination Fees

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Pharmacy pertaining to deletion of examination 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 cursive script that reads "Michael J. Romano R.Ph.".

Michael J. Romano, R.Ph., Chairperson
State Board of Pharmacy

MJR:CLC:kmh

Enclosure

cc: Linda C. Barrett, Chief Counsel
Department of State
Basil L. Merenda, 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
Carole L. Clarke, Counsel
State Board of Pharmacy
State Board of Pharmacy

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

I.D. NUMBER: 16A-5413
SUBJECT: Deletion of Examination Fees
AGENCY: DEPARTMENT OF STATE

#2423

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
2004 AUG 23 AM 11:25
REGULATORY REVIEW ACT

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/23	<i>Sandra J. Harper</i>	HOUSE COMMITTEE ON STATE GOVERNMENT Professional Licensure
	<i>Gau Cleaver</i>	SENATE COMMITTEE ON STATE GOVERNMENT <i>Com. PRT & PRT & PRT</i>
9/23/04	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
8/23	<i>[Signature]</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

July 27, 2004