

Regulatory Analysis Form

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STATE BOARD OF PHARMACY

(1) Agency

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

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

16A-5414

IRRC Number: 2456

(3) Short Title

Biennial Renewal Fees

(4) PA Code Cite

(5) Agency Contacts & Telephone Numbers

Primary Contact: Carole Clarke, Counsel

State Board of Pharmacy 783-7200

Secondary Contact: Joyce McKeever, Deputy Chief Counsel

Department of State 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 non-technical language.

The amendment increases the Board's biennial renewal fees for pharmacists and pharmacies. The Bureau of Finance and Operations of the Department of State predicts that if the biennial renewal fees remain the same, by fiscal year 2005-2006 the Board's expenses will exceed its revenues. Section 8.2(b) of the Pharmacy Act (62 P.S. §390-8.2(b)) requires the Board to increase fees by regulation in an amount adequate to meet the minimum enforcement efforts required by the act. The amendment increases the pharmacist license biennial renewal fee from \$120 to \$150 and the pharmacy permit biennial renewal fee from \$75 to \$100.

Regulatory Analysis Form

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

The amendment is authorized by section 8.2(a) and (b) of the Pharmacy Act.

(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. Sections 8.2(a) and (b) of the Pharmacy Act, 63 P.S. §390-8.2(a), (b), require the Board fees be fixed by regulation and that fees be increased if not sufficient to meet expenditures.

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

The new fees allow the Board to comply with the legislative mandate of its enabling statute that the Board sustain its operating and enforcement costs through fees imposed on its licensees.

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

Nonregulation of pharmacists and pharmacies increases the risk of substandard pharmacy care, which may adversely affect public health.

(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 regulated practitioners will benefit from fee increases which assure that the Board will have sufficient revenue to carry out its operating and enforcement activities and ensure the Commonwealth will have an adequate supply of competent practitioners.

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.)

On a biennial basis approximately 17,762 pharmacists and 3,160 pharmacies will pay an additional \$30.00 and \$25.00 respectively. This represents a biennial cost to the regulated community of \$532,860.00 for pharmacists and \$79,000.00 for pharmacies.

(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.)

Approximately 17,762 pharmacists and 3,160 pharmacies apply for licenses and permits biennially.

(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.

A notice of the proposed rulemaking was published at 35 Pa.B. 1219 (February 12, 2005) and was submitted to the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee as well as IRRC. The Board received no public comments. The House Professional Licensure Committee, the Senate Consumer Protection and Professional Licensure Committee, and IRRC did not offer any comments on the proposed 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 legal, accounting or consulting costs are anticipated as a result of the regulation. Biennial renewal fees will cost an additional \$532,860.00 for pharmacists and \$79,000.00 for pharmacies.

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.

This regulation does not affect local governments.

(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 must charge fees that reflect its actual costs in providing services to licensees and applicants, implementing the regulation will produce no identifiable costs or savings to state government.

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 +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government						
State Government						
Total Savings						
COSTS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	\$532,860	\$79,000	\$532,860	\$79,000
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government						
State Government						
Total Revenue Losses						

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

Cost estimates to the regulated community were derived by multiplying the proposed fee increase by the number of licensees. The biennial renewal fee increase for pharmacists will not start until the October 1, 2006 renewal so the current fiscal year and fiscal year +1 costs are zero. Beginning with the pharmacist license renewal in fiscal year +2 the costs will increase by the amount listed. In fiscal year +3 with the pharmacy permit renewal the costs will increase by the amount listed.

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	\$1,213,162.22	\$1,389,369.42	\$1,588,828.54	\$1,655,000.00

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

The regulation provides for the licensure population to pay for the costs of Board administration in biennial fees, which, by law, must meet or exceed expenditures. The proposed fees have been set at the lowest amount possible to sustain the Board.

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

No nonregulatory approaches were considered as Section 8.2(b) of the Pharmacy Act, 63 P.S. §390-8.2(b), requires a regulatory approach.

(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.

Currently there are no federal regulations pertaining to the topics addressed in these regulations.

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

The fees are comparable to those in surrounding states. The fees should cause no competitive disadvantage.

<u>State</u>	<u>Pharmacist</u>	<u>Renewal Period</u>	<u>Pharmacy</u>	<u>Renewal Period</u>
New York	\$200.00	3 years	\$260.00	3 years
New Jersey	\$140.00	2 years	\$170.00	1 year
Delaware	\$33.00	2 years	\$60.00	2 years
Ohio	\$97.50	1 year	\$150.00	1 year
West Virginia	\$120.00	2 years	\$100.00	1 year
Maryland	\$150.00	2 years	\$250.00	1 year

(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 changes Section 27.91, Schedule of fees, 49 Pa. Code §27.91, in the existing regulations.

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

The Board provides an opportunity for public input into its activities, including its rulemaking proposals, at its regularly scheduled monthly meetings. The dates times and places of the Board's meetings are available at the Department of Stats Website, www.state.pa.us.

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.

(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 not identified particular needs for which special provisions need to be developed or anticipated in connection with biennial renewal fees.

(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 amendment will be effective upon final publication in the Pennsylvania Bulletin. The new fees will take effect for the pharmacist license biennial period commencing October 1, 2006 and pharmacy permit holders with the biennial period commencing September 1, 2007.

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

The Board will review the effectiveness of this regulation as part of its annual review of its fiscal operations.

CDL-1

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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

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Pharmacy
(AGENCY)

[Signature]
ANDREW C. CLARK

DOCUMENT/FISCAL NOTE NO. 16A-5414

DATE OF APPROVAL

DATE OF ADOPTION: _____

8.24.05
DATE OF APPROVAL

BY: *[Signature]*
Michael J. Romano, R.Ph.

(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.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHARMACY
49 PA. CODE, CHAPTER 27
BIENNIAL RENEWAL FEES

The State Board of Pharmacy (Board) hereby amends § 27.91 (relating to schedule of fees) to read as set forth in Annex A. The amendments increase the biennial license renewal fee for pharmacists from \$120 to \$150 and increase the biennial renewal fee for a pharmacy permit from \$75 to \$100.

A. Effective Date

The rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The new fees will take effect for the pharmacist biennial period commencing October 1, 2006, and the pharmacy permit biennial period commencing September 1, 2007.

B. Statutory Authority

The amendment is authorized under section 8.2(a) of the Pharmacy Act (act) (63 P.S. § 390-8.2(a)). In addition, section 8.2(b) of the act requires the Board to increase fees by regulation in an amount adequate to meet the minimum enforcement efforts required by the act.

C. Summary of Comments and Responses on Proposed Rulemaking

Publication of proposed rulemaking on February 12, 2005, at 35 Pa.B. 1219, was followed by a 30-day public comment period during which the Board received no public comments. The Independent Regulatory Review Commission (IRRC) had no objections, comments or recommendations to offer on this final-form rulemaking. The House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The Board subsequently voted to adopt the final rulemaking at its April 20, 2005 meeting.

D. Purpose and Description

Section 8.2(a) of the act requires the Board to set fees by regulation in accordance with projected biennial revenues and expenditures. A detailed analysis of the fiscal operation of the Board and projections of future revenues and expenses is set forth in the notice of proposed rulemaking cited above.

E. Fiscal Impact and Paperwork Requirements

The amendments will increase the biennial renewal fee for pharmacists and pharmacies. A

pharmacist will pay an additional \$30 for biennial renewal. A pharmacy will pay an additional \$25 for biennial renewal. The amendments should have no other fiscal impact on the private sector, the general public or political subdivisions. The amendments will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the amendments should not create additional paperwork for the private sector.

F. Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact on the public and the regulated population under the directives of Executive Order 1996-1. This final-form rulemaking addresses a compelling public interest and otherwise complies with Executive Order 1996-1.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 2, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 1219, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

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

H. Additional Information

Individuals who need information about the regulation may contact Melanie Zimmerman, R.Ph., Executive Secretary, State Board of Pharmacy, P.O. Box 2649, Harrisburg, PA 17105-2649.

I. Findings

The State Board of Pharmacy finds:

- (1) That public notice of intention to adopt a regulation at 49 Pa. Code, Chapter 27, was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1 and 7.2.
- (2) That a public comment period was provided as required by law and all comments were considered.
- (3) That this final rulemaking of the State Board of Pharmacy is necessary and appropriate for the administration of the Pharmacy Act.

J. Order

The Board therefore ORDERS that:

- (A) The regulations of the Board, 49 Pa. Code Chapter 27, are amended to read as set forth in Annex A.
- (B) The Board shall submit this Order and a copy of 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 shall deposit them with the Legislative Reference Bureau as required by law.
- (D) This Order shall take effect upon publication in the Pennsylvania Bulletin.

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

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:

* * *

Registered pharmacist biennial renewal..... [\$120] \$150

* * *

Biennial renewal of pharmacy permit..... [\$75] \$100

* * *

- (i) Case presentations, such as grand rounds or patient case studies.
- (ii) Academic coursework and research studies approved by an institutional review board.
- (iii) Interactive workshops.
- (iv) Lectures and seminars.
- (v) Residency and Fellowship programs which are at the postbaccalaureate level, and are sponsored by a United States regionally accredited college or university, or an institution accredited/approved by the Joint Committee on Accreditation of Healthcare Organizations (JCAHO) or the National Committee for Quality Assurance (NCQA).

(2) The Board will not accept for completion of the CPE requirement the following:

- (i) Academic coursework or programs on office management skills, or entrepreneurship, strategic business planning, computer skills, except courses directly related to the practice of dietetics-nutrition such as accessing nutrition analysis databases.
 - (ii) Attendance at exhibits manned by detail personnel.
 - (iii) Journal clubs.
 - (iv) Professional leadership, such as holding an elective office in a dietetics or dietetics-related organization.
 - (v) Professional reading for which there is no evaluative test submitted and no certificate of completion or CPE unit awarded.
- (c) *Documentation.* The licensee shall retain documentation of completion of Board-approved continuing education (as set forth in subsection (b)) for at least 5 years and shall submit this documentation upon request of the Board.

(d) *Waiver.* An LDN who can demonstrate to the Board a verified hardship may request a waiver of CPE requirements for a single biennial period. It shall be the duty of each licensee seeking waiver to notify the Board in writing and request the waiver, at least 60 days prior to the end of the biennial renewal period, which will be granted, denied or granted in part.

§ 21.725. Inactive status.

An LDN may request that his license be placed on inactive status. The licensee will not be required to remit the biennial renewal fee during the period when the license is on inactive status. To return to active status, the licensee shall submit proof of completion of a minimum of 30 hours of approved CPE in the biennial period preceding the request for reactivation and pay any applicable fees. A person who requests an active status license who has been on inactive status for 5 consecutive years shall satisfy the requirements of section 6(b)(4) of the act (63 P. S. § 216(b)(4)), unless the person demonstrates that he has held an active license to practice in another state, an RD registration, or a CNS certification for at least 2 out of the last 5 years.

[Pa.B. Doc. No. 05-280. Filed for public inspection February 11, 2005, 9:00 a.m.]

STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27] Biennial Renewal 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. The proposed rulemaking would increase the biennial license renewal fee for pharmacists from \$120 to \$150 and the pharmacy permit biennial renewal fee from \$75 to \$100.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The new fees will take effect for the pharmacist biennial period beginning October 1, 2006.

Statutory Authority

The proposed rulemaking is authorized under section 8.2(a) of the Pharmacy Act (act) (63 P. S. § 390-8.2(a)). In addition, section 8.2(b) of the act requires the Board to increase fees by regulation in an amount adequate to meet the minimum enforcement efforts required by the act.

Background and Need for Amendment

The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties. In accordance with section 8.2 of the act, if the Board anticipates that its revenue will not meet its expenditures, the Board must increase its revenue. The Board raises virtually all of its operating revenue through fees. The biennial license renewal fees are the most substantial revenue generating fees of all the fees charged by the Board. The Board's current biennial license renewal fees were established by regulation in 1998.

At its February 17, 2004, Board meeting and again at its April 20, 2004, Board meeting, the Bureau of Finance and Operations (BFO) presented a summary of the Board's revenues and expenses for Fiscal Years (FY) 2001-2002 and 2002-2003 and projected revenues and expenses for FY 2003-2004 through FY 2010-2011. The summary, presented in the following table, demonstrated that the Board must raise fees to meet or exceed projected expenditures to comply with section 8.2(b) of the act.

2001-2002 beginning balance	\$1,047,957.15
FY 01-02 revenue	456,056.98
Prior year returned funds	153,857.90
FY 01-02 expenses	1,207,000.00
Remaining balance	450,872.03
2002-2003 beginning balance	450,872.03
FY 02-03 revenue	2,093,691.14
FY 02-03 expenses	1,270,000.00
Remaining balance	1,274,563.17
2003-2004 beginning balance	1,274,563.17
FY 03-04 projected revenue	478,000.00
FY 03-04 projected expenses	1,495,000.00
Prior year expenses	169,515.61
Remaining balance	88,047.56
2004-2005 beginning balance	88,047.56
FY 04-05 projected revenue	2,094,000.00
FY 04-05 projected expenses	1,540,000.00
Remaining balance	642,047.56

2005-2006 beginning balance	\$ 642,047.56
FY 05-06 projected revenue	500,000.00
FY 05-06 projected expenses	1,586,000.00
Remaining balance	(443,952.44)
2006-2007 beginning balance	(443,952.44)
FY 06-07 projected revenue	2,094,000.00
FY 06-07 projected expenses	1,634,000.00
Remaining balance	16,047.56
2007-2008 beginning balance	16,047.56
FY 07-08 projected revenue	500,000.00
FY 07-08 projected expenses	1,683,000.00
Remaining balance	(1,166,952.44)
2008-2009 beginning balance	(1,166,952.44)
FY 08-09 projected revenue	2,094,000.00
FY 08-09 projected expenses	1,733,000.00
Remaining balance	(805,952.44)
2009-2010 beginning balance	(805,952.44)
FY 09-10 projected revenue	500,000.00
FY 09-10 projected expenses	1,733,000.00
Remaining balance	(2,038,952.44)
2010-2011 beginning balance	(2,038,952.44)
FY 10-11 projected revenue	2,094,000.00
FY 10-11 projected expenses	1,785,000.00
Remaining balance	(1,729,952.44)

As the foregoing indicates, at the close of FY 2005-2006, the Board's expenses will exceed its revenues by \$443,952.44. While the pharmacist renewal will bring the Board's account back to a positive balance in FY 2006-2007, the BFO estimates that in FY 2007-2008, the deficit will increase to \$1,166,952.44 if fees are not increased. The BFO anticipates that the proposed new fees will enable the Board to recapture the FY 2005-2006 deficit and meet its estimated expenditures for the FY 2006-2007 biennial cycle. The Board would operate at a slight deficit in the FY 2007-2008 pharmacy permit biennial renewal period, but that would be recaptured in the FY 2008-2009 pharmacist license biennial renewal period and the projections out to FY 2010-2011 show the Board carrying a positive balance forward.

The increases in the Board's biennial expenses occurred primarily in law enforcement costs and legal office costs. Law enforcement (the Bureau of Enforcement and Investigation) expenditures increased from approximately \$507,412 in FY 2002-2003 to approximately \$713,280 in FY 2003-2004. The legal office (division of the Bureau of Professional and Occupational Affairs) expenditures increased from approximately \$288,247 in FY 2002-2003 to approximately \$362,304 in FY 2003-2004.

The legal office saw an increase in the number of cases closed in calendar years 1998 through 2003. Beginning in 1998 the number of disciplinary sanctions imposed increased markedly. From 1994 through 1997 the number of disciplinary sanctions imposed never reached 100, 95 sanctions being the highest in 1995. However, from 1998 through 2003 the number of sanctions imposed never dipped below 125. Furthermore, the Board has undertaken several regulatory initiatives. Two large regulation packages, Technology and Automation and the regulations required under the act of June 28, 2002 (P. L. 673, No. 102), have been proposed, as well as other regulation packages the Board has undertaken to revise and update its regulations.

The Board carefully reviewed several options in fee increases to ensure the lowest fee increase possible while keeping the Board out of a long run deficit. In addition to increasing fees, the Board is looking at ways to stream-

line procedures to cut costs, but the fee increases are still necessary to maintain a positive balance in the Board account in the long run. Finally, in developing the proposed rulemaking, the Board reviewed fees of other states. It found that the proposed fees are comparable to the renewal fees charged in surrounding states and should cause no competitive disadvantage in this Commonwealth.

Description of Proposed Amendments

Based upon the expense and revenue estimates provided to the Board, the Board proposes to amend § 27.91 to increase the fee for biennial renewal of licenses for pharmacists from \$120 to \$150 and increase the biennial fee for pharmacy permits from \$75 to \$100. By this increase, the Board will recoup the FY 2005-2006 projected deficit in FY 2006-2007. A smaller deficit in FY 2007-2008 is projected. However, by FY 2008-2009, the Board's account should continue to carry a positive balance.

Fiscal Impact

The proposed rulemaking will increase the biennial renewal fee for pharmacists and pharmacies. A pharmacist will pay an additional \$30 for biennial renewal. A pharmacy will pay an additional \$25 for biennial renewal. The proposed rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed rulemaking should not create additional paperwork for the private sector.

Sunset Date

The act requires that the Board monitor its revenue and expenses on a fiscal year and biennial 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 February 2, 2005, 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 must 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, recommendations or objections regarding this proposed rulemaking to Melanie Zimmerman, Executive Secretary, 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

Fiscal Note: 16A-5414. 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 27. STATE BOARD OF PHARMACY

FEEES

§ 27.91. Schedule of fees.

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

	*	*	*	*	*
Registered pharmacist biennial renewal . . .					[\$120] \$150
	*	*	*	*	*
Biennial renewal of pharmacy permit					[\$75] \$100
	*	*	*	*	*

[Pa.B. Doc. No. 05-281. Filed for public inspection February 11, 2005, 9:00 a.m.]

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CHS. 47—49]

Supervised Clinical Experience

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) proposes to amend §§ 47.12c, 48.13 and 49.13 (relating to licensed clinical social worker; licensed MFT; and licensed professional counselor) to read as set forth in Annex A. The proposed rulemaking would exclude group supervisory sessions within educational, institutional and agency settings from the requirement that supervisors supervise no more than six supervisees at the same time.

Effective Date

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

Statutory Authority

The proposed rulemaking is authorized under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P.S. § 1906(2)).

Background and Purpose

Section 7(d)(3), (e)(3) and (f)(3) of the act (63 P.S. § 1907(d)(3), (e)(3) and (f)(3)) requires an applicant for licensure as a clinical social worker, marriage and family therapist and professional counselor to, among other things, complete hours of supervised clinical experience. Sections 47.12c(b)(6), 48.13(b)(6) and 49.13(b)(6) concerning supervised clinical experience for licensed clinical social workers, licensed marriage and family therapists and licensed professional counselors currently prohibit a supervisor from supervising more than six supervisees at the same time. However, the Board recognizes that group supervision often occurs within educational, institutional and agency settings. In these settings, the Board recognizes that the prohibition of more than six supervisees is overly restrictive and enforcement would result in the exclusion of these sessions from qualifying as supervised clinical experience for purposes of licensure qualification. Accordingly, the Board believes that an exception should be made for these types of group supervisory settings.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no fiscal impact and impose no additional paperwork requirements on the Board or its licensees.

The proposed rulemaking should not impose any legal, accounting or reporting requirements on the regulated community.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 2, 2005, 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 must 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 Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Sandra Matter, Administrative Assistant, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-698, Supervised Clinical Experience, when submitting comments.

RONALD HAYS,
Chairperson

Fiscal Note: 16A-698. No fiscal impact; (8) recommends adoption.



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

September 30, 2005

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

Re: Final Regulation
State Board of Pharmacy
16A-5414: Biennial Renewal Fees

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Pharmacy pertaining to Biennial 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,

A handwritten signature in black ink that reads "Michael J. Romano R.Ph.".

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

MJR/CLC:sb

Enclosure

c: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Gerald S. Smith, 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-5414

SUBJECT: State Board of Pharmacy: Biennial Renewal Fees

AGENCY: DEPARTMENT OF STATE

2456

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

RECEIVED
 2005 SEP 30 AM 11:05
 REGISTRY DIVISION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9/30/05	<i>Sandra Harper</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/30/05	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
9/30/05	<i>Stephen Finkel</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
9/30/05	<i>Steph D. Hoff</i>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

August 24, 2005