

Regulatory Analysis Form		This space for use by IRRC 2005 FEB 23 AM 10:12 REVIEW COMMISSION	
(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Psychology		IRRC Number: 2464	
(2) I.D. Number (Governor's Office Use) 16A-6316			
(3) Short Title Biennial Renewal Fee Increase			
(4) PA Code Cite 49 Pa. Code § 41.12		(5) Agency Contacts & Telephone Numbers Primary Contact: Judith Pachter Schulder, State Board of Psychology 717-783-7200 Secondary Contact: Joyce McKeever, Deputy Chief Counsel 717-783-7200	
(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The regulation increases the biennial renewal fee for psychologists. The new fee is needed because the current fee, established in 1990, no longer covers the cost of sustaining the Board's operations.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The amendments are proposed under sections 3.3(a) and of the Professional Psychologists Practice Act (act) (63 P.S. § 1203.3(a)).			

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. The Board is required by section 3.3(a) of the Act (63 P.S. § 1203.3(a)) to reconcile its expenses and revenue biennially and to increase fees as needed to meet or exceed projected expenditures.

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

The Board is required by section 3.3(a) of the Act (63 P.S. § 1203.3(a)) to set fees to raise sufficient revenue to meet expenditures. It is anticipated that without raising fees the Board will realize a deficit of \$998,554.58 by fiscal year 2006-2007.

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

Nonregulation would adversely impact the fiscal integrity of the Board.

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

Recipients of psychology services in the Commonwealth will benefit by having adequate funding for the Board to regulate the profession to insure that the appropriate standards of professional competence and integrity are maintained.

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 licensee population will bear the cost of the increased 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.)

All psychologists seeking to renew their licenses will be required to comply with this regulation. The Board estimates about 5,600 renewals.

(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.

The reconciliation of its budget is an administrative function for which public input is not required. However, the Board receives its budget reports and discusses fee increases in public sessions, which are generally attended by representatives of the Pennsylvania Psychological Association (PPA).

(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 that may be required.

The Board estimates that about 5,600 psychologists will renew their licenses. Total additional cost for the entire regulated community for a biennial period is approximately \$1,688,700.00. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.

Regulatory Analysis Form

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

Local governments will not be affected by the regulation.

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

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

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 N/A	FY +1 N/A	FY +2 N/A	FY +3 N/A	FY +4 N/A	FY +5 N/A
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	844,350.00	844,350.00	844,350.00	844,350.00	844,350.00	844,350.00
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

See attached fee report forms.

The cost estimates are based upon the licensee population of 5,600 with the renewal expense spread over the two year biennial renewal period.

Biennial renewal

5,600 renewals x increase of \$180.00 over current fee = \$1,008,000.00

Total cost to all licensees: 5,600 x \$180.00 = \$1,008,000.00

The figures in (20) above represent the total increase to psychologists, expressed as an annual expense.

5,629 X \$300.00 = \$1,688,700.00 divided by 2 = \$844,350.00

Regulatory Analysis Form

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

Program	FY -3 FY 01-02 Actual	FY -2 FY 02-03 Actual	FY -1 FY 03-04 Projected	Current FY FY 04-05 Budgeted
Psychology Board	474,294.78	541,378.66	571,037.42	631,000.00

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

The amendments to the existing regulations are mandated by section 3.3(a) of the act (63 P.S. § 1203.3(a)), so that Board revenues meet Board expenses.

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

No nonregulatory alternatives were considered. See Question 21.

(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. See Question 21.

Regulatory Analysis Form

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

There are no federal licensure standards.

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

This regulation will not put Pennsylvania licensees at a competitive disadvantage with other states, as the proposed fees are consistent with surrounding states. For example, the biennial renewal fee for psychologists in New Jersey is \$300; in New York, psychologists pay a biennial renewal fee of \$155; in Ohio, psychologists pay a \$350 biennial renewal fee; West Virginia charges a \$250 biennial renewal fee; Delaware's biennial renewal fee is \$118; finally, in Maryland, psychologists pay a \$350 biennial renewal fee.

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

No.

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

The Board reviews regulatory proposals at regularly scheduled public meetings. However, in light of the statutory mandate, the Board has not scheduled public hearings or informational meetings regarding this regulation.

Regulatory Analysis Form

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

No changes to reporting, record keeping, or other paperwork is required by this regulation.

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

The Board has perceived no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

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

The regulation will be effective upon publication as final rulemaking in the *Pennsylvania Bulletin*.

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

The Board reviews its revenues and costs of its programs on a fiscal year and biennial basis.

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

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REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

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

BY: *Angela Elliott*
(DEPUTY ATTORNEY GENERAL)

FEB 01 2005

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 Psychology
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-6316

DATE OF ADOPTION: _____

BY: _____

Alex M. Siegel, J.D., Ph.D.

TITLE: Chairperson

(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

BY: *[Signature]*

1.6.05

DATE OF APPROVAL

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

- [] 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 PSYCHOLOGY
49 PA. CODE § 41.12
BIENNIAL RENEWAL FEE INCREASE

The State Board of Psychology (Board) proposes to amend § 41.12 (relating to fees) to read as set forth in Annex A. The proposed regulation would increase the biennial license renewal fee for psychologists from \$120.00 to \$300.00.

Effective Date

The amendment will be effective upon final publication in the Pennsylvania Bulletin. The new fees will take effect for the biennial period commencing December 1, 2005.

Statutory Authority

The amendment is authorized under section 3.3(a) of the Professional Psychologists Practice Act (act) (63 P.S. § 1203.3(a)). It requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Board expenditures.

Background and Need for Amendment

The Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In accordance with section 3.3(a) of the act (63 P.S. § 1203.3(a)), if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period, the Board must increase fees by regulation so that its projected revenues will match or exceed expenditures.

The Board raises virtually all of its operating revenue (exclusive of application and services fees) through biennial renewal fees. The biennial license renewal fee is the most substantial revenue generating fee of all the fees charged by the Board. The Board's current biennial license renewal fee for psychologists was established by regulation on April 14, 1990. (See 20 Pa. B. 2034).

At its September 21, 2004, Board meeting, the Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for fiscal years 2001-2002 and 2003-2004 and projected revenue and expenses for fiscal years 2003-2004 through 2010-2011. The summary, presented in table format below, demonstrated that the Board must raise fees to meet or exceed projected expenditures to comply with section 3.3(a) of the Act. BFO projected a deficit of \$420,554.58 in fiscal year 2004-2005, a deficit of \$370,554.58 in fiscal year 2005-2006 and a deficit of \$998,554.58 in fiscal year 2006-2007. Therefore, BFO recommended that the Board raise fees to meet projected expenditures, in compliance with section 3.3(a) of the Act, 63 P.S. § 1203.3(a).

2001-2002 beginning balance	\$281,563.02
FY 01-02 revenue	701,605.69
Prior year returned funds	15,208.46
FY 01-02 expenses	384,000.00
Remaining balance	614,377.17
2002-2003 beginning balance	\$614,377.17
FY 02-03 revenue	40,496.72
Prior year returned funds	0.00
FY 02-03 expenses	418,000.00
Remaining balance	236,873.89
2003-2004 beginning balance	\$236,873.89
FY 03-04 projected revenue	716,282.39
FY 03-04 projected expenses	544,000.00
Remaining balance	409,156.28
2004-2005 beginning balance	\$409,156.28
FY 04-05 projected revenue	42,000.00
Adjusted for prior year expenses	240,710.86
FY 04-05 projected expenses	631,000.00
Remaining balance	(\$420,554.58)
2005-2006 beginning balance	(\$420,554.58)
FY 05-06 projected revenue	700,000.00
FY 05-06 projected expenses	650,000.00
Remaining balance	(370,554.58)
2006-2007 beginning balance	(\$370,554.58)
FY 06-07 projected revenue	42,000.00
FY 06-07 projected expenses	670,000.00
Remaining balance	(998,554.58)
2007-2008 beginning balance	(\$998,554.58)
FY 07-08 projected revenue	700,000.00
FY 07-08 projected expenses	690,000.00
Remaining balance	(998.554.58)
2008-2009 beginning balance	(\$998,554.58)
FY 08-09 projected revenue	42,000.00
FY 08-09 projected expenses	711,000.00

Remaining balance	(1,657,554.58)
2009-2010 beginning balance	(\$1,657,554.58)
FY 09-10 projected revenue	740,000.00
FY 09-10 projected expenses	732,000.00
Remaining balance	(1,649,554.58)
2010-2011 beginning balance	(\$1,649,554.58)
FY 10-11 projected revenue	42,000.00
FY 10-11 projected expenses	754,000.00
Remaining balance	(\$2,361,554.58)

As the foregoing indicates, BFO estimates that at the close of FY 2004-2005, the Board's expenses will exceed its revenues by \$420,554.58. Thereinafter, BFO anticipates that the deficit will increase proportionally, except for FY2005-2006, in each succeeding fiscal year. Without an increase, the projected deficit in FY 2010-2011 would be \$2,361,554.58.

The increases in the Board's biennial expenses occurred primarily in hearing examiner and legal office costs. Hearing examiner expenditures increased from approximately \$10,914.55 in FY 2002-2003 to approximately \$ 28,472.31 in FY 2003-2004. BFO estimates that this expenditure will increase to \$32,000.00 in FY 2004-2005. The legal office expenditures increased from approximately \$208,344.29 in FY 2002-2003 to approximately \$228,056.31 in FY 2003-2004. BFO anticipates that this expenditure will increase to \$240,000.00 in FY 2004-2005.

Hearing examiner costs almost tripled in 2003-2004 as a result of the increasing number of cases delegated to the hearing examiners in 2002-2003. During 2002-2003, the Board delegated 20 cases to hearing examiners. In 2003-2004, the Board delegated 10 cases to hearing examiners. Many of the cases delegated in 2002-2003 were actually heard in 2003-2004. In addition to continuing education cases which were delegated in 2002-2003, in 2003-2004, the Board also began delegating criminal conviction and reciprocal discipline cases to hearing examiners.

In 2003, the Board imposed significantly more disciplinary sanctions than in any prior year. In 2003, the Board imposed 32 total sanctions, as opposed to 17 in 2002, 10 in 2001, 16 in 2000 and 20 in each 1998 and 1999. Additionally, the Board imposed more serious sanctions than in any prior year, imposing 12 serious sanctions in 2003, 7 in 2002, 5 in 2001, 8 in 2000 and 3 each in 1998 and 1999. Finally, the Board closed more cases in 2003 than in any prior year, closing 133 cases as compared with 87 cases in 2002, 62 in 2001, 88 in 2000, 86 in 1999 and 114 in 1998. As of September 20, 2004, there were 104 cases currently opened as opposed to 131 cases open as of September 20, 2003.

At the same time, the Board's licensee population has declined by about 400 licensees over the past five years. The net effect was that while the Board's costs of enforcement activities were increasing, the Board experienced a decrease in its largest revenue-generating source. Moreover, as a result of a small licensee population, the Board is unable to take advantage of the economies of scale available to licensees of Boards with larger populations.

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 streamline 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 proposal, 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 to the Commonwealth.

Description of Proposed Amendments

Based upon the above expense and revenue estimates provided to the Board, the Board proposes to amend its fee schedule at 49 Pa. Code § 41.12 (relating to fees) to increase the fee for biennial renewal of licenses for psychologists from \$120.00 to \$300.00.

Compliance with Executive Order 1996-1

The requirements of Executive Order 1996-1 (February 6, 1996) for public input are not applicable to regulations relating solely to reconciliation of the Board's budget through increases in biennial renewal fees as they are required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

Fiscal Impact

The proposed amendments will increase the biennial renewal fee for psychologists. The proposed regulation should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed regulation will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed regulations 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 23, 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 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 Christina Stuckey, Administrator, State Board of Psychology, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

ANNEX

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF PSYCHOLOGY

LICENSES

* * *

§ 41.12. Fees.

The schedule of fees charged by the Board is as follows:

Biennial renewal fee\$[120]300

FEE REPORT FORM

Agency: State - BPOA

Date: 10/18/2004

Contact: Basil Merenda

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Psychologists Biennial Renewal Fee: \$300.00

Estimated Biennial Revenue:

Psychologists - \$1,688,700.00 (5,629 renewals x \$300.00)

Total Estimated Biennial Revenue: \$1,688,700.00

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 Psychology's administrative overhead, specifically the difference between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.

Fee-Related Activities and Costs:

Estimated balance at end of 04/05 cycle:	(420,554.58)
FOR BIENNIAL CYCLE 7/01/05-6/30/06	
Estimated non-renewal revenue:	44,000.00
Estimated renewal revenue @ above rates:	1,688,700.00
Total revenue available:	1,312,145.42
Estimated expenditures:	650,000.00
Estimated ending balance on 6/30/06:	<u>662,145.42</u>
FOR BIENNIAL CYCLE 7/01/06-6/30/07	
Estimated non-renewal revenue:	44,000.00
Estimated renewal revenue @ above rates:	4,000.00
Estimated expenditures:	670,000.00
Estimated ending balance on 6/30/07:	<u>40,145.42</u>

Analysis, Comment, and Recommendation:

It is recommended that the above renewal fee's be established to cover projected funding shortfalls between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PSYCHOLOGY
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7155

February 23, 2005

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

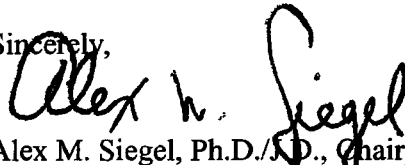
Re: Proposed Regulation
State Board of Psychology
16A-6316: Biennial Renewal Fee Increase

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Psychology pertaining to Biennial Renewal Fee Increase.

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

Sincerely,


Alex M. Siegel, Ph.D./J.D., Chairperson
State Board of Psychology

AMS:JPS:apm

Enclosure

cc: Albert Masland, 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
Gerald S. Smith, Senior Counsel in Charge
Department of State
Judith Pachter Schulder, Counsel
State Board of Psychology
State Board of Psychology

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

I.D. NUMBER: 16A-6316
 SUBJECT: State Board of Psychology - Biennial Renewal Fee Increase
 AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
2/23/05	<i>Nancy Beaudry</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
2/23/05	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
2/23/05	<i>Steph J. Hoffman</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
2/23/05	<i>Cynthia L. Brown</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

February 11, 2005