

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		<p style="text-align: center;">This space for use by IRRC</p> <p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">2006 MAR 16 AM 11:43</p> <p style="text-align: center;">INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p style="text-align: right;">IRRC Number: 2495</p>
<p>(1) Agency</p> <p>Department of State, Bureau of Professional and Occupational Affairs, State Board of Nursing</p>		
<p>(2) I.D. Number (Governor's Office Use)</p> <p>16A-5127</p>		
<p>(3) Short Title</p> <p>Fees for Approval of Nursing Education Program</p>		
<p>(4) PA Code Cite</p> <p>49 Pa. Code, §§ 21.5, 21.147 & 21.253</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: Teresa Lazo-Miller, Counsel State Board of Nursing (717) 783-7200</p> <p>Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200</p>	
<p>(6) Type of Rulemaking (check one)</p> <p><input type="checkbox"/> Proposed Rulemaking</p> <p><input checked="" type="checkbox"/> Final Order Adopting Regulation</p> <p><input type="checkbox"/> Policy Statement</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The amendment will raise the fee for approval of professional and practical nursing education programs from \$475 to \$935 and the fee for approval of certified registered nurse practitioner (CRNP) education programs from \$475 to \$735.</p>		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>Section 11.2 of the Professional Nursing Law (RN act) (63 P.S. § 221.2) authorizes the Board to approve professional nursing education programs. Section 17.5 of the Practical Nurse Law (PN act) (63 P.S. § 667.5) authorizes the Board to approve practical nursing education programs.</p> <p>Section 8.1 of the RN act (63 P.S. § 218.1) authorizes the Board to certify CRNPs who have graduated from approved educational programs.</p>		

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 federal or state law or court order or federal regulation.

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

Section 11.2(b) of the RN act (63 P.S. § 212.2(b)) requires the Board to meet its operational expenses through fees charged to licensees. The Board's general operating expenses are funded through biennial license renewal fees. The Board charges a fee for services provided based on the cost of providing the service, in accordance with section 11.2(d) of the RN act (63 P.S. § 212.2(d)). When the cost of providing a particular service is no longer the same as the fee for the service, the Board amends its regulations so that the fee for a service accurately reflects the cost of providing the service. The public interest is served by utilizing the Board's general operating fund from biennial fees for the enforcement of the nursing acts and regulations, rather than to support services performed for particular individuals.

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

Failure to adjust fees to reflect actual costs of evaluating nursing education programs may effect the quality of the evaluation and negatively impact upon the quality of nursing education in the Commonwealth.

(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 benefits from the Board's enforcement of the nursing acts and regulations.

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 not identified any groups or subsets of groups that 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 developers of nursing education programs will be required to pay the new fees for approval of their proposed programs.

(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 amendments are based on the revenue office assessment of the actual costs of providing services, the Board did not seek input from the public in the development and drafting of the regulation.

Regulatory Analysis Form

(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 amendment will increase the fee for professional and practical nursing education programs by \$460. From 1993 to 2004, the Board approved approximately 13 new professional nursing programs and 12 new practical nursing programs. If the numbers are consistent for the next 11-year time period, the overall increase will be \$11,500 or \$1045 per year.

The amendment will increase the fee for CRNP nursing education programs by \$260. The Board has approved 30 CRNP nursing education programs since 1993 and anticipates only a handful of new CRNP programs over the next 11 years.

(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 complying with the regulation.

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

There are no costs or savings to state government because the Board is self-supporting.

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:	\$	\$	\$	\$	\$	\$
Regulated Community	NA	NA	NA	NA	NA	NA
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Savings	NA	NA	NA	NA	NA	NA
COSTS:						
Regulated Community	0	1305	1305	1305	1305	1305
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Costs	NA		\$	\$		
REVENUE LOSSES:						
Regulated Community	NA	NA	NA	NA	NA	NA
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Revenue Losses	NA	NA	NA	NA	NA	NA

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

The amendment will increase the fee for professional and practical nursing education programs by \$460. From 1993 to 2004, the Board approved approximately 13 new professional nursing programs and 12 new practical nursing programs. If the numbers are consistent for the next 11-year time period, the overall increase will be \$11,500 or \$1045 per year.

The amendment will increase the fee for CRNP nursing education programs by \$260. The Board has approved 30 CRNP nursing education programs since 1993 and anticipates only a handful of new CRNP programs over the next 11 years.

The estimates are based on an average of new professional and practical nursing education programs and one new CRNP program per year.

Regulatory Analysis Form

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

Program	FY -98-99	FY -99-00	FY -00-01 AS OF 12/31/01	BUDGETED FY 01-02
State Board of Nursing	\$3,922,622.16	\$4,514,839.67	\$4,934,157.00	\$4,827,000.00

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

The benefits of having an accurate fee for the service of approving nursing education programs in order to conserve the Board's resources for the enforcement of its acts in order to assure safe nursing practice for the citizens of the Commonwealth outweigh the limited additional cost per program.

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

No nonregulatory alternatives were considered because the Board is required by section 11.2 of the RN act (63 P.S. § 221.2) and by section 17.5 of the PN act (63 P.S. § 667.5) to fix all fees by regulation.

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

Because the fees are based on an assessment of the actual costs of providing services, 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.

No federal standards apply.

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

The regulation will not put Pennsylvania at a competitive disadvantage with other states, because the fee is comparable to the fees charged by other State Boards of Nursing for approval of nursing education programs. For example, the fee in New Jersey is \$1,400.00.

(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 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 regulations in public session at its monthly meetings. The dates, times and locations of the Board meetings are published on the Board's website at www.dos.state.pa.us/nurse.

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 amendment will not change 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 group or subset of a group with particular needs which would be affected by the amendment. Therefore, no special provisions have been developed or anticipated.

(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 become effective on publication of the final-form rulemaking in the Pennsylvania Bulletin.

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

The Board continuously monitors its regulations at its meetings. Meeting dates are available on the Department of State's website, www.dos.state.pa.us.

(2) A certificateholder is exempt from the continuing education requirement for the first biennial renewal period subsequent to initial certification.

(3) The Board may waive the requirements of continuing education in cases of serious illness, or other demonstrated hardship or military service. It shall be the duty of each certificateholder who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The Board will grant, deny or grant in part the request for waiver and will send the certificateholder written notification of its approval or denial in whole or in part of the request. A certificateholder who requests a waiver may not practice as a respiratory care practitioner after the expiration of the certificateholder's current certificate until the Board grants the waiver request.

(4) A licensee shall maintain the information and documentation supporting completion of the hours of continuing education required, or the waiver granted, for at least 2 years from the commencement of the biennial renewal period to which the continuing education or waiver applies.

§ 18.309b. Approved educational courses.

(a) The Board approves respiratory care continuing education programs designated for professional development credits by the AARC, the AMA, the AOA and the CSRT. The courses, locations and instructors provided by these organizations for continuing education in respiratory care are deemed approved by the Board. Qualifying AMA continuing education programs shall be in AMA PRA Category I as defined in § 16.1 (relating to definitions) and qualifying AOA continuing education programs shall be in Category 1A and 1B.

(b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of Education which offers academic credits is also approved for continuing education credit by the Board. Proof of completion of the academic credits shall be submitted to the Board for determination of number of credits completed.

(c) The Board will not accept courses of study which do not relate to the clinical aspects of respiratory care, such as studies in office management and financial procedures.

[Pa.B. Doc. No. 05-1852. Filed for public inspection October 7, 2005, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Fees for Approval of Nursing Education Programs

The State Board of Nursing (Board) proposes to amend §§ 21.5, 21.147 and 21.253 (relating to fees) to read as set forth in Annex A. The proposed rulemaking will update the fees charged for the approval of nursing education programs.

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 11.2 of the Professional Nursing Law (RN act) (63 P.S. § 221.2) and section 17.5 of the Practical Nurse Law (PN act) (63 P.S. § 667.5).

Background and Need for the Proposed Rulemaking

The Board provides various services to licensees, applicants and nursing schools for which fees are charged. Section 6.1 of the RN act (63 P.S. § 216.1), regarding approval of professional nursing education programs, section 9 of the PN act (63 P.S. § 659), regarding approval of practical nursing education programs, and section 8.1 of the RN act (63 P.S. § 218.1), regarding qualifications for certified registered nurse practitioners (CRNPs), approved programs of education, require the Board to approve nursing education programs. Under this statutory authority, the Board has promulgated regulations detailing the requirements of approved programs of nursing education in §§ 21.31—21.126 and 21.161—21.234. The Board anticipates the promulgation of a final-form rulemaking regarding the approval of CRNP education programs later this year. See 34 Pa.B. 4890 (September 4, 2004).

The Board reviews nursing educational programs with the assistance of its nursing education advisors, who are individuals with a minimum of a master's degree in nursing in accordance with section 2.1(i) of the RN act (63 P.S. § 212.1(i)). The procedure for reviewing an application for approval of a new nursing education program requires that the Board staff conduct an in-depth review and analysis of the application, including review of the budget, curriculum, faculty and clinical experiences. In addition, Board staff conducts a site survey and reviews the physical facilities, such as classroom space, library holdings and nursing equipment. The amended fees associated with this approval process are directly tied to the administrative cost of reviewing and analyzing the application and surveying the program.

In 1991, the Board established fees for the approval of professional and practical nursing education programs at 21 Pa.B. 5521 (November 30, 1991). The fees were amended in 1993, to their current levels of \$475 for professional and practical nursing education programs. See 23 Pa.B. 5634 (November 27, 1993). The Board charges CRNP programs seeking approval the same fee.

Since 1993, the time expended by the Board staff to review each program has increased dramatically. Many of the proposals from the past 2 years to develop nursing education programs at the professional and practical nurse level have come from individuals with little or no background in nursing education. This is due in part to the recent need for new nursing education programs, which is directly related to the need to educate more nurses because of the nursing shortage. The inexperience of the new program developers has led to greatly increased involvement of the nursing education advisors in planning curriculum and clinical experiences, and overseeing the creation of facilities for nursing education programs. It has become common for the Board staff to review and offer advice on multiple draft proposals before the proposals are ready to be presented to the Board.

The Board sets fees, other than biennial renewal fees that support the general operations of the Board, based on the actual cost of providing services. The Office of Revenue conducted a study of the average services provided to nursing education programs seeking Board approval and determined that the fee for approval of

professional and practical nursing education programs should be set at \$935 and the fee for approval of CRNP education programs should be set at \$735. Previously, CRNP education programs were charged the same as professional nursing education programs under § 21.5. To keep all provisions related to CRNPs in Subchapter C of the Board's regulations, the Board will place the fee for CRNP program approval in § 21.253.

Description of Proposed Amendments

The proposed amendments would raise the fee for approval of professional and practical nursing education programs from \$475 to \$935. The proposed rulemaking would raise the fee for approval of CRNP education programs from \$475 to \$735.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking would increase the fee for approval of professional and practical nursing education programs by \$460. From 1993 to 2004, the Board has approved approximately 13 new professional nursing programs and 12 new practical nursing programs. If the numbers are consistent for the next 11-year time period, the overall increase will be \$11,500 or \$1,045 per year. The proposed rulemaking would increase the fee for CRNP nursing education programs by \$260. The Board has approved 30 CRNP nursing education programs since 1993 and anticipates only a handful of new CRNP programs over the next 11 years. The Board will realize savings to its general operating budget by having the fee for the service of approving nursing education programs accurately reflect the cost of the service provided. There is no fiscal impact on the Commonwealth from the proposed rulemaking.

The proposed rulemaking will not create or reduce paperwork requirements for nursing education programs seeking approval or for the Board. There are no paperwork requirements on the Commonwealth regarding the approval of nursing education programs.

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 September 26, 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, recommendations or objections regarding this proposed rulemaking to Ann Steffanic, Board Administrator,

State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

JANET HUNTER SHIELDS, MSN, CRNP, CNS,
Chairperson

Fiscal Note: 16A-5127. 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 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.5. Fees.

(a) The following fees are charged by the Board:

* * * * *

Application for approval of new nursing program.....\$ [475] 935

* * * * *

**Subchapter B. PRACTICAL NURSES
GENERAL PROVISIONS**

§ 21.147. Fees.

(a) The following fees are charged by the Board:

* * * * *

Application for approval of new nursing program.....\$ [475] 935

* * * * *

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

GENERAL PROVISIONS

§ 21.253. Fees.

The following fees are charged by the Board:

* * * * *

Application for approval of new nursing program.....\$735

[Pa.B. Doc. No. 05-1853. Filed for public inspection October 7, 2005, 9:00 a.m.]

**STATE BOARD OF
OSTEOPATHIC MEDICINE**

[49 PA. CODE CH. 25]

Respiratory Therapists

The State Board of Osteopathic Medicine (Board) proposes to amend §§ 25.502 and 25.509 (relating to definitions; and renewal of certification) and add §§ 25.509a and 25.509b (relating to requirement of continuing education; and approved educational programs) to read as set forth in Annex A.

There were no commentators who requested additional information on the final-form regulation.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW OF PERSON

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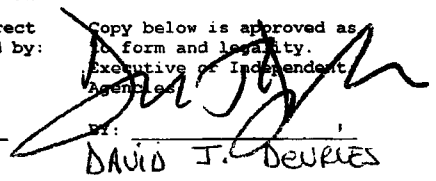
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copy of a document issued, prescribed or promulgated by:

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Executive of Independent
Agency

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Nursing
(AGENCY)


BY: 
DAVID J. DEWRIES

DOCUMENT/FISCAL NOTE NO. 16A-5127

DATE OF APPROVAL

DATE OF ADOPTION: _____

FEB 7 2006
DATE OF APPROVAL

BY: 
Joanne L. Sorensen, R.N.

EXECUTIVE
(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 NURSING
49 PA. CODE, CHAPTER 21
FEES FOR APPROVAL OF NURSING EDUCATION PROGRAMS

The State Board of Nursing (Board) adopts amendments to §§ 21.5, 21.147 and 21.253 (relating to fees) to read as set forth in Annex A.

Notice of Proposed Rulemaking was published at 35 Pa.B. 5522 (October 8, 2005). Publication was followed by a 30-day public comment period during which the Board did not receive any comments from the public. On November 22, 2005, the House Professional Licensure Committee (HPLC) submitted one comment. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. On December 7, 2005, the Independent Regulatory Review Commission (IRRC) issued a letter stating that it had no objections, comments or recommendations to offer on the regulation and noted that if the final-form regulation was submitted without revisions, and the committees do not take any action, it would be deemed approved.

Comment and Response

The HPLC requested detailed information regarding the process for approving new education programs and the fiscal process used for determining the new fees.

As noted in the Board's proposed rulemaking, the Board reviews nursing educational programs with the assistance of its nursing education advisors, who are individuals with a minimum of a Master's degree in nursing in accordance with section 2.1(i) of the Professional Nursing Law (RN act) (63 P.S. § 212.1(i)). The procedure for reviewing an application for approval of a new nursing education program requires that the Board staff conduct an in-depth review and analysis of the application, including review of the budget, curriculum, faculty and clinical experiences.

Representatives of controlling institutions proposing development of a new nursing education program are required to submit a feasibility study addressing their intent. The feasibility study may be submitted in one or two phases. Most institutions choose to submit the study in two phases. The program must gather data to prepare Phase I of the feasibility study, and submit the data in an organized format to the Board staff.

Board staff reviews the study to determine compliance with the Board's regulations. This review is extensive and requires Board staff to determine if the program is in compliance with the controlling institution's policies and procedures, if any other regulatory or accrediting bodies (such as the Department of Education, financial aid providers, institutional and programmatic accrediting bodies) have standards and whether the proposal meets these standards.

Board staff reviews the study to determine if the program has provided compelling regional labor statistics regarding the need for the type of licensee in the projected geographic area and potential local and regional employment opportunities for graduates.

Board staff reviews the study to determine whether the proposal has adequately addressed the potential impact on other nursing education programs within the geographic area (generally considered a 50-mile radius from the proposed program). This determination involves assessment of the locale, region, state or states from which the proposed and existing programs draw students to determine whether there are waiting lists or more applicants than the existing programs can admit annually. In addition, Board staff must consider whether the existing programs utilize the clinical sites the proposed program is proposing to use, and if so, analyze the possible effects on clinical experiences for the students of both the existing and proposed programs.

Board staff also review the projected student enrollment for the first and subsequent classes, the number of classes to be admitted annually, and the projected time frame for planning and initiating the program, including the submission of the Phase II feasibility study, hiring of the program administrator and faculty, and so forth.

Board staff reviews the controlling institution's accreditation status and date of next scheduled review. In addition, Board staff reviews the education mission of the controlling institution and the types of programs and degrees offered. Board staff considers whether the controlling institution operates satellite programs where the presence of this technologic capability impacts the proposed new nursing education program. Board staff reviews the organizational chart to determine whether the relationship of the proposed new program to the controlling institution complies with Board regulations.

Board staff reviews the job descriptions and suggested teaching/administrative hours of proposed faculty and staff for compliance with Board regulations. If faculty/staff have already been hired, Board staff determines whether the faculty/staff qualifications are consistent with the Board's regulations.

Board staff reviews the new program's philosophy and mission statement to determine congruence with that of the controlling institution. Board staff reviews the suggested curriculum and course descriptions. For practical nursing programs, Board staff reviews the hours required for program completion.

Board staff reviews the proposed physical location to be committed to the program, including staff and faculty office space, classrooms, laboratory, library and storage areas. Board staff determines if the proposed physical location is adequate to support the number of students the program has anticipated. Board staff reviews any submitted environmental or safety compliance documents submitted. Finally, Board staff carefully reviews the Agency Data Forms that must be submitted for each clinical site the program intends to use to determine whether sufficient and meaningful clinical experiences will be available for the proposed and existing programs.

Board staff also reviews the submitted budget to determine whether it is consistent with other nursing education programs of the same type operating in a similar geographic area within the Commonwealth.

Board staff offers feedback to the program within 3 to 4 weeks of receipt of the Phase I feasibility study. The program then responds to the feedback and may need to submit a revised proposal. The program may also request additional feedback or assistance from the Board staff. When the Phase I study is ready for submission to the Board, Board staff provides the Board with a written review of the proposal's strengths and weaknesses, impact on existing programs and recommendation to accept the proposal or request additional information.

Once the Board has reviewed the Phase I study and the staff's report, the Board discusses the proposal at a Board meeting and votes on the acceptance of the study. This vote authorizes the program to prepare and submit the Phase II feasibility study. Board staff provides written verification of the Board's action to the program.

The program then prepares its Phase II study and submits it to Board staff for review. Board staff again reviews the Phase II study on behalf of the Board. The Phase II study is more focused. Staff reviews the qualifications of the proposed director and nursing faculty and academic policies. In addition, staff reviews the master plan of the curriculum proposed, including detailed course descriptions and sample of the student clinical evaluation tool. This review includes a determination of whether the program evidences an adequate number of suitably scheduled core courses that prepare the students to enter the practice of nursing at the level proposed.

Board staff reviews the construction or renovation of the proposed physical facilities and the list of educational resources, equipment, supplies and library resources that have been purchased or will be purchased for the program. Board staff conducts a site survey and reviews the physical facilities, such as classroom space, library holdings and nursing equipment.

Board staff reviews the admission policies and criteria to determine congruence with the controlling institution. Board staff reviews the proposed progression and graduation criteria, grading policies and advanced placement policies. Recordkeeping is also examined to ensure compliance with Board regulations.

Board staff offers feedback to the program within 3 to 4 weeks of receipt of the Phase II feasibility study. The program then responds to the feedback and may need to submit a revised proposal. The program may also request additional feedback or assistance from the Board staff. When the Phase II study is ready for submission to the Board, Board staff provides the Board with a written review of the proposal's strengths and weaknesses, impact on existing programs and recommendation to accept the proposal or request additional information.

Once the Board has reviewed the Phase II study and the staff's report, the Board discusses the proposal at a Board meeting and votes on the acceptance of the study. This vote authorizes the program to admit students and begin operation of the new nursing education program.

The HPLC also requested a more detailed description of the fiscal process used to arrive at the new fees. Fees that are based on services provided are calculated to offset the identifiable costs incurred by the Board and to defray a portion of the Board's administrative overhead. The Department of State Revenue Office identified the following cost categories for provision of the service of approving a nursing education program: staff time to review and prepare the application, Board administrator time to prepare the application for the Board, Board counsel time to review the application for legal issues, Board meeting time for the Board to review and discuss the application, nursing education advisor time to evaluate the application and draft a proposal to the Board, executive secretary time per application and a portion of administrative overhead. Where the fee is related to time spent by an individual or individuals, the fee is based on the average wage of the individual performing the task, with an added 31% to account for non-wage benefits.

For each of the three types of nursing education programs, staff time to review and prepare the application was estimated at 15 minutes, or \$4.27. Staff at this level would open the package sent by the program seeking approval, ensure that the proper number of copies had been provided, make any additional copies needed, and forward the application through interoffice mail to other appropriate staff. The staff is also responsible for date stamping the application and logging its submission.

The time estimated for the Board's nursing education advisor to review the application is 21 hours for RN and LPN programs and 15 hours for CRNP programs, or \$695.31 and \$496.65, respectively. The review process was outlined in response to the HPLC's first comment. The review time varies widely depending on the knowledge and skill of the individuals preparing the application. The Board's nursing education advisors have spent over 100 hours on a single application. Other applications take less than 21 hours to review. CRNP program applications are more polished and are always prepared by professional-level university staff. Therefore, the average time to review these applications is less than the average time to review applications for RN and LPN programs.

For each of the three types of nursing education programs, Board counsel time to review legal issues was estimated at 30 minutes, or \$18.90. The Board's counsel works with the Board's nursing education advisors to review compliance with the Board's regulations. Because the Board counsel's review is limited to legal issues, the time involved is substantially less than the time required by the nursing education advisor.

For each of the three types of nursing education programs, the Board meeting time is estimated at 30 minutes, or \$196.14. Board meeting costs are calculated by adding per diem and travel expenses for board members and dividing the result by the total hours the Board meets within a fiscal year to calculate an hourly cost. The figure for this rulemaking was based on 12 Board members being compensated at the statutorily authorized rate of \$60 per diem, or \$720. In 2005, the Board met 18 days, so the total per diem paid to Board members was \$720 times 18, or \$12,960. Board meeting costs also include the annual expense for Board members to travel to Board meetings. The estimated travel expenses for the year, submitted for budget approval, are \$40,000. The total cost, \$12,960 + \$40,000, is \$52,960. The total cost is then divided by the number of hours (7.5 hours per day times 18 meeting days, or 135 hours), to obtain a per hour cost of \$392.29. Because the Board meeting time is estimated at 30 minutes, the fee for this part of the service was estimated at \$196.14.

For each of the three types of nursing education programs, Board administrator time to prepare the application was estimated at 4.8 minutes, or \$2.03. The Board administrator is responsible for drafting the formal correspondence to the program when the program has been approved.

For each of the three types of nursing education programs, an administrative overhead charge of \$11.50 was estimated.

Statutory Authority

The final rulemaking is authorized under section 11.2 of the Professional Nursing Law (RN act) (63 P.S. § 221.2) and section 17.5 of the Practical Nurse Law (PN act) (63 P.S. § 667.5).

Fiscal Impact and Paperwork Requirements

The final rulemaking will increase the fee for approval of professional and practical nursing education programs by \$460. From 1993 to 2004, the Board has approved approximately 13 new professional nursing programs and 12 new practical nursing programs. If the numbers are consistent for the next 11-year time period, the overall increase will be \$11,500 or \$1045 per year. The amendments would increase the fee for CRNP nursing education programs by \$260. The Board has approved 30 CRNP nursing education programs since 1993 and anticipates only a handful of new CRNP programs over the next 11 years. The Board will realize savings to its general operating budget by having the fee for the service of approving nursing education programs accurately reflect the cost of the service provided. There is no fiscal impact on the Commonwealth from the proposed amendments.

The amendments will not create or reduce paperwork requirements for nursing education programs seeking approval or for the Board. There are no paperwork requirements on the Commonwealth related to the approval of nursing education programs.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 26, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 5522, to IRRC and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (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 the comment from the HPLC.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, the final-form rulemaking was 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 approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The State Board of Nursing finds that:

- (1) Public notice of intention to adopt these amendments has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201-1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1-7.2.
- (2) A public comment period was provided as required by law and no comments were received.

- (3) This final-form rulemaking is necessary and appropriate for the administration of the Professional Nursing Law and Practical Nurse Law.

Order

The Board therefore ORDERS that:

- (A) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending §§ 21.5, 21.147 and 21.253, to read as set forth in Annex A.
- (B) The Board shall submit a copy of this order and Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.
- (C) The Board shall certify this order and Annex and shall deposit them with the Legislative Reference Bureau as required by law.
- (D) This order shall take effect immediately upon publication in the Pennsylvania Bulletin.

Joanne Sorensen, RN, MS
Chairman, State Board of Nursing

ANNEX A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 21. STATE BOARD OF NURSING**

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§21.5. Fees.

(a) The following fees are charged by the Board:

Application for approval of new nursing program.....\$[475]935

Subchapter B. PRACTICAL NURSES

GENERAL PROVISIONS

§21.147. Fees.

(a) The following fees are charged by the Board:

Application for approval of new nursing program.....\$[475]935

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

GENERAL PROVISIONS

* * *

§21.253. Fees.

The following fees are charged by the Board:

* * *

Application for approval of new nursing program.....\$735

* * *



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

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7142

March 16, 2006

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 Nursing
16A-5127: Fees for Approval of Nursing Education Programs

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Nursing pertaining to fees for approval of nursing education programs. The Board did not receive any comments from the public on the rulemaking.

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

Sincerely,


Joanne L. Sorensen, RN, MS, Chair
State Board of Nursing

JLS/TLM:apm

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
Herbert Abramson, Senior Counsel in Charge
Department of State
Teresa Lazo-Miller, Counsel
State Board of Nursing
State Board of Nursing

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 16A-5127

SUBJECT: State Board of Nursing: Fees for Approval of Nursing Education Programs

AGENCY: DEPARTMENT OF STATE

2006 MAR 16 AM 11:03

INDEPENDENT REGULATORY
REVIEW COMMISSION

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

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

3/16/06 Sandra J. Hayer

HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

3/16/06 Mary Walmer

SENATE COMMITTEE ON CONSUMER PROTECTION &
PROFESSIONAL LICENSURE

3/16/06 St. Helms

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

February 14, 2006