

# Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Physical Therapy

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

16A-6511

IRRC Number: 2566

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INDEPENDENT REGULATORY REVIEW COMMISSION

(3) Short Title

Biennial Renewal Fees – Physical Therapists, Physical Therapist Assistants and Holders of Certificates to Practice Physical Therapy Without a Referral

(4) PA Code Cite

49 Pa. Code, Chapter 40  
§40.5

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Beth Sender Michlovitz, Counsel**  
**State Board of Physical Therapy**  
**(717)783-7200**

Secondary Contact: **Joyce McKeever, Deputy Chief**  
**Counsel, Regulatory Review**  
**(717)783-7200**

(6) Type of Rulemaking (check one)

Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final, Proposed Omitted

(7) Is a 120-Day Emergency Certification Attached?

No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation increases the biennial renewal fees for physical therapists, physical therapist assistants and holders of certificates to practice physical therapy without a referral. The new fees are needed because the current fees, established in 1988, 1988 and 2004, respectively, no longer cover 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 section 8(b) of the Physical Therapy Practice Act (act) (63 P.S. §1308(b)).

**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 8(b) of the act (63 P.S. § 1308(b)) 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 8(b) of the act (63 P.S. § 1308(b)) to set fees to raise sufficient revenue to meet expenditures. It is anticipated that without raising fees the Board will realize a deficit of \$282,664.81 by fiscal year 2007-2008.**

(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 physical therapy 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 fees.**

(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 licensed physical therapists, holders of certificates to practice physical therapy without a referral and registered physical therapist assistants seeking to renew their licenses, certificates and registrations will be required to comply with this regulation. The board estimates 10,700 physical therapists will renew their licenses, 1,100 physical therapists with certificates to practice without a referral will renew their certificates and 3,734 physical therapist assistants will renew their registrations.**

(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.**

## 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 Board estimates that 10,700 physical therapists will renew their licenses, 1,100 holders of certificates to practice physical therapy without a referral will renew their certificates and 3,734 physical therapist assistants will renew their registrations. Total estimated biennial revenue from all license types is approximately \$1,180,530.00. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.**

(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 which 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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>						
Regulated Community	0	\$334,625	\$334,625	\$334,625	\$334,625	\$334,625
Local Government						
State Government						
Total Costs						
<b>REVENUE</b>						
Regulated Community						
Local Government						
State Government						
Total Revenue						

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

The cost estimates are based upon the total licensee population of 15,534, with the renewal expense spread over the two year biennial renewal period.

Biennial renewal – physical therapists

10,700 renewals x increase of \$53 over current fee = \$567,100

Biennial renewal – certificates to practice physical therapy without a referral

1,100 renewals x increase of \$8 over current fee = \$8,800

Biennial renewal – physical therapist assistants

3,734 renewals x increase of \$25 over current fee = \$93,350

The figures in (20) above represent the total increase to licensees, certificate holders and registrants, expressed as an annual expense.

**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
<b>State Board of Physical Therapy</b>	<b>\$268,110.98</b>	<b>\$259,358.51</b>	<b>\$206,679.59</b>	<b>\$287,000.00</b>

(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 8(b) of the act (63 P.S. § 1308(b)), 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 other 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 lower than surrounding states. For example, the biennial renewal fee for physical therapists in New Jersey is \$110, the biennial renewal fee for a physical therapist assistant is \$100; in New York, physical therapists pay a triennial renewal fee of \$155 and physical therapist assistants pay a triennial renewal fee of \$50; in Delaware, physical therapists pay a biennial renewal fee of \$90 and physical therapist assistants pay a biennial renewal fee of \$90; physical therapists and physical therapist assistants pay a biennial renewal fee of \$120 in Ohio; in West Virginia, physical therapists pay a biennial renewal fee of \$120 and physical therapist assistants pay a biennial renewal fee of \$80; and in Maryland, physical therapists pay a biennial renewal fee of \$175 and physical therapist assistants pay a biennial renewal fee of \$150.**

(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. A list of scheduled Board meetings may be found at [www.dos.state.pa.us](http://www.dos.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 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 of Final Rulemaking in the Pennsylvania Bulletin. Compliance will be required as of January 1, 2009.**

(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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INDEPENDENT REGULATORY  
REVIEW COMMISSION

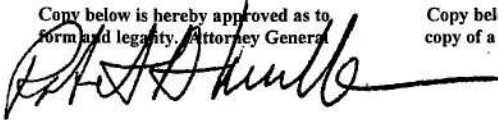
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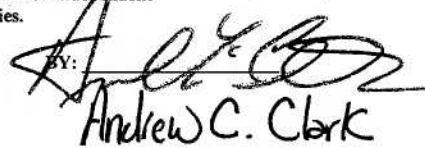
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BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

State Board of Physical Therapy  
(AGENCY)

  
BY: \_\_\_\_\_  
Andrew C. Clark

JUL 10 2006

DOCUMENT/FISCAL NOTE NO. 16A-6511

JUN 30 2006

DATE OF APPROVAL

DATE OF ADOPTION: \_\_\_\_\_

DATE OF APPROVAL

BY: Charles E. Meacci  
Charles E. Meacci, PT

~~(Executive Deputy General Counsel  
If the inapplicable title)~~

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Check if applicable  
Copy not approved.  
Objections attached.

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

PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF PHYSICAL THERAPY  
49 PA. CODE, CHAPTER 49

Biennial Renewal Fees for Physical Therapists, Physical  
Therapist Assistants and Holders of Certificates to  
Practice Physical Therapy Without a Referral

The State Board of Physical Therapy (Board) proposes to amend § 40.5 (relating to fees) as set forth in Annex A. The proposed regulation would increase the biennial license renewal fee for physical therapists from \$37 to \$90, would increase the biennial renewal fee for certificates to practice physical therapy without a referral from \$37 to \$45 and would increase the registration renewal fee for physical therapist assistants from \$20 to \$45.

#### Effective Date

The amendments will be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin. The increased fees will be effective for the renewal period beginning January 1, 2009.

#### Statutory Authority

Section 8(b) of the Physical Therapy Practice Act (act) (63 P.S. §1308(b)) 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 Purpose

The Board's current biennial license renewal fees for physical therapists and physical therapist assistants were established on November 4, 1988. (See 18 Pa.B. 4952.) The Board's current biennial renewal fee for certificates to practice physical therapy without a referral was established on July 16, 2004. (See 34 Pa.B. 3700.) Under section 8(b) of the act (63 P.S. § 1308(b)), the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board must increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises virtually all of its revenue through biennial renewal fees.

At Board meetings in January and March, 2006, the Department of State's Offices of Revenue and Budget presented a summary of the Board's revenue and expenses for fiscal years 2003-2004 and 2004-2005, and projected revenue and expenses through 2012-2013. The Offices of Revenue and Budget projected a deficit of \$282,664.81 in fiscal year 2007-2008, a deficit of \$205,664.81 in fiscal year 2008-2009, a deficit of \$549,664.81 in fiscal year 2009-2010, a deficit of \$485,664.81 in fiscal year 2010-2011, a deficit of \$853,664.81 in fiscal year 2011-2012 and a deficit of \$814,664.81 in fiscal year 2012-2013. The major reason for the deficits is that the renewal fees have not been increased since 1988. Those fees have carried the board for almost 18 years. In addition, the need for an increase in fees is the result of an increase in the number of opened disciplinary cases over the last three fiscal years. In fiscal year 2002-2003, there were 21 opened legal cases; in fiscal year 2003-2004, there were 36 opened legal cases; and in fiscal year 2004-2005, there was an all time high of 65 opened legal cases. As of May 11, 2006, there were 35 opened legal cases. The increase in the number of cases also resulted in an increase in hearing examiner expenses. As a result of the projected deficits, the Offices of Revenue and Budget recommended that the Board raise fees to meet or exceed projected expenditures, in compliance with section 8(b) of the act. The Budget Office anticipates that the proposed new biennial renewal fees will enable the Board to meet its estimated expenditures for at least eight years.

Although the proposed fee increase is significant, it is not surprising. As already stated, the fees for physical therapists and physical therapist assistants have not been increased since 1988. Also, in spite of the proposed increases, the Board's new fees will still be lower than the surrounding states. For example, the following renewal fees are charged by neighboring states: biennial renewal fee for physical therapists in New Jersey is \$110, the biennial renewal fee for a physical therapist assistant is \$100; in New York, physical therapists pay a triennial renewal fee of \$155 and physical therapist assistants pay a triennial renewal fee of \$50; in Delaware, physical therapists pay a biennial renewal fee of \$90 and physical therapist assistants pay a biennial renewal fee of \$90; physical therapists and physical therapist assistants pay a biennial renewal fee of \$120 in Ohio; in West Virginia, physical therapists pay a biennial renewal fee of \$120 and physical therapist assistants pay a biennial renewal fee of \$80; and in Maryland, physical therapists pay a biennial renewal fee of \$175 and physical therapist assistants pay a biennial renewal fee of \$150.

#### Description of Proposed Amendments

Based upon the expense and revenue estimates provided to the Board, the Board proposes to amend § 40.5 (relating to fees) to increase the fee for biennial renewal of licenses for physical therapists from \$37 to \$90, to increase the fee for biennial renewal of certificates to practice physical therapy without a referral from \$37 to \$45, and to increase the fee for biennial renewal of registrations to practice as physical therapist assistants from \$20 to \$40.

#### Fiscal Impact

The proposed regulation will increase the biennial renewal fee for physical therapists, holders of a certificate to practice physical therapy without a referral and physical therapist assistants. 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 cost 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 September 20, 2006, the Board submitted a copy of this proposed regulation 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. 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 Robert Kline, Administrative Assistant, State Board of Physical Therapy, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-6511, Biennial Renewal Fees, when submitting comments.

ANNEX A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY**

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 40.5. Fees.**

The following fees are charged by the Board:

*Physical therapist:*

\*\*\*\*

Biennial renewal.....\$[37]90

\*\*\*\*

Biennial renewal of Certificate to Practice Physical Therapy without a  
referral.....\$[37]45

\*\*\*\*

*Physical therapist assistants:*

\*\*\*\*

Biennial renewal of registration.....\$[20]45

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## PUBLIC COMMENTATORS FOR 16A-6511

There were no public comments received relating to Regulation 16A-6511.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF PHYSICAL THERAPY

Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7134

September 20, 2006

The Honorable Alvin C. Bush, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Physical Therapy  
16A-6511: Biennial Renewal Fees

Dear Chairman Bush:

Enclosed is a copy of a proposed rulemaking package of the State Board of Physical Therapy 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,

*Charles E. Meacci*  
Charles E. Meacci, PT, Chairperson  
State Board of Physical Therapy

CEM/BSM:knh

Enclosure

cc: Basil L. Merenda, Commissioner  
Bureau of Professional and Occupational Affairs  
Albert H. 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  
Beth Sender Michlovitz, Counsel  
State Board of Physical Therapy  
State Board of Physical Therapy

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

I.D. NUMBER: 16A-6511  
 SUBJECT: BIENNIAL RENEWAL FEES FOR PHYSICAL THERAPISTS  
 AGENCY: DEPARTMENT OF STATE – STATE BOARD OF PHYSICAL THERAPY

**TYPE OF REGULATION**

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

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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
9/20/06	<u>Riva Siebhammer</u>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/20/06	<u>Charlotte C. Koser</u>	
9/20/06	<u>Mary Walmer</u>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
9/20/06	<u>Stephen French</u>	
9/20/06	<u>Kathy Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
9/20/06	<u>Marya Baras</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)