

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:

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

(2) Agency Number:

Identification Number:

16A-5422

IRRC Number:

2719

INDEPENDENT REGULATORY
REVIEW COMMISSION

2009 JUN 29 AM 10:00

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(3) Short Title:

Fees

(4) PA Code Cite:

49 Pa. Code § 27.91

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

**Primary Contact: Thomas A. Blackburn, Regulatory unit counsel, Department of State;
(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; tblackburn@state.pa.us**

**Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State
(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; jmckeever@state.pa.us**

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5: **State Board of Pharmacy**

(717)783-7156; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-7769; st-pharmacy@state.pa.us

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The rulemaking increases the fees for the pharmacy intern certificate, new pharmacy permits, reinspections, and pharmacy permit changes. The rulemaking also amends the Board's biennial renewal fees for pharmacists and pharmacies. The rulemaking raises the pharmacy intern certificate fee from \$30 to \$35, the pharmacist initial license application fee from \$40 to \$45, the reinspection fee from \$90 to \$115, the pharmacy permit change without inspection fee from \$30 to \$45, the pharmacy permit change when inspection required fee from \$95 to \$125, the pharmacist license biennial renewal fee from \$150 to \$190 and the pharmacy permit biennial renewal fee from \$100 to \$125.

(9) Include a schedule for review of the regulation including:

- | | |
|---|--------------------------------------|
| A. The date by which the agency must receive public comments: | <u>Sept. 29, 2008</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>N/A</u> |
| D. The expected effective date of the final-form regulation: | <u>publ. as final</u> |
| E. The date by which compliance with the final-form regulation will be required: | |
| | (applications) <u>effective date</u> |
| | (pharmacy renewals) <u>9/1/09</u> |
| | (pharmacist renewals) <u>10/1/10</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

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

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the third Tuesday of each month. More information can be found on the Board's website (www.dos.state.pa.us/pharmacy).

Regulatory Analysis Form

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

This rulemaking is authorized by section 8.2 of the Pharmacy Act (act) (63 P.S. § 390-8.2).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes. Section 8.2(a) of the act (63 P.S. § 390-8.2(a)) requires the Board's fees be fixed by regulation, and section 8.2(b) of the act (63 P.S. § 390-8.2(b)) requires that renewal fees be increased if not sufficient to meet expenditures.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The new fees allow the Board to comply with the legislative mandate of its enabling statute that the Board sustain its operating and enforcement costs through fees imposed on its licensees. Nonregulation of pharmacists and pharmacies increases the risk of substandard pharmacy care, which may adversely affect public health. The general public and regulated practitioners will benefit from fee increases which assure that the Board will have sufficient revenue to carry out its operating and enforcement activities and ensure the Commonwealth will have an adequate supply of qualified practitioners.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

The application fees of this rulemaking are based upon an estimate of the amount of staff time necessary to provide the requested service. A fee sheet for each application fee is attached. The renewal fees of this rulemaking are based upon projections of the costs of operating the Board. Budget expense and revenue projections prepared by the Department of State's fiscal management division are also attached. This rulemaking is not based upon any other scientific data, studies, or references.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

All pharmacists, pharmacies and applicants to the Board will be adversely affected by the rulemaking that increases fees. The specific estimates are included in the response to question 17.

Regulatory Analysis Form

(16) 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 pharmacists, pharmacies and applicants to the Board will be required to comply with the rulemaking. The Board licenses approximately 18,426 pharmacists and 3,364 pharmacies.

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

No legal, accounting or consulting costs are anticipated as a result of the regulation. Biennial renewal fees will cost an additional \$737,040 for pharmacists and \$84,100 for pharmacies. It is estimated that the increased application fees will cost the regulated community an additional \$18,312.50 each year.

Cost estimates to the regulated community were derived by multiplying the fee increase by the estimated number of licensees/applicants.

18,426 pharmacists x \$40 (increase) = \$737,040 in even-numbered years (beginning in October, 2010)

3,364 pharmacies x \$25 (increase) = \$84,100 in odd-numbered years (beginning in September, 2009)

1,275 pharmacist applicants x \$5 (increase) = \$6,375 biennially or \$3,187.50 per year

1,400 pharmacy intern applicants x \$5 (increase) = \$7,000 biennially or \$3,500 per year

200 new pharmacy permit applicants x \$25 (increase) = \$5,000 biennially or \$2,500 per year

400 pharmacy change applications (inspection required) x \$30 (increase) = \$12,000 biennially or \$6,000 per year

400 pharmacy change applications (no inspection required) x \$15 (increase) = \$6,000 biennially or \$3,000 per year

10 applications for re-inspection after failure x \$25 (increase) = \$250 biennially or \$125 per year

(Total annual cost for application fee increases = \$18,312)

There are no other costs or savings to the regulated community associated with compliance with the rulemaking.

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. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with compliance with the rulemaking.

(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. Explain how the dollar estimates were derived.

There are no costs or savings to state government associated with compliance with the rulemaking.

(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						
Local Government						
State Government						
Total Savings	NA	NA	NA	NA	NA	NA
COSTS:						
Regulated Community	\$0	\$102,413	\$755,352	\$102,413	\$755,352	\$102,413
Local Government						
State Government						
Total Costs	\$0	\$102,413	\$755,352	\$102,413	\$755,352	\$102,413
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	NA	NA	NA	NA	NA	NA

Regulatory Analysis Form

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

Program	FY -3 (FY 05-06) actual	FY -2 (FY 06-07) actual	FY -1 (FY 07-08) projected	Current FY (FY 08-09) budget
Pa. State Board of Pharmacy	\$1,434,730	\$1,683,729	\$1,807,640	\$1,889,000

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The rulemaking provides for the licensee population and applicants for Board services to pay for the costs of Board administration through fees that, by law, must provide enough revenue to meet or exceed expenditures. The fees have been set at the lowest amount possible to sustain the Board. The increased fees assure that the Board will have sufficient revenue to carry out its operating and enforcement activities and ensure the Commonwealth will have an adequate supply of qualified practitioners.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

Because the Board is statutorily mandated to set its fees to cover the cost of its operations, the Board did not send an exposure draft of the proposed rulemaking or solicit input from interested parties. However, the Board discussed the proposed rulemaking at public meetings of the Board, which are routinely attended by members of the regulated community and their professional associations. In developing and drafting the regulation, the Board considered the fees as both required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The Board considered several options in fee increases and elected to adopt the lowest fee increases possible while keeping the Board out of a long-term deficit. No other alternative regulatory schemes were considered.

(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 regulations.

This rulemaking will not be more stringent and will not overlap or conflict with any federal requirements.

Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The fees are comparable to those in surrounding states. Not all fees charged by other states are available online, however the following renewal fees are charged.

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

The following pharmacist initial application fees are charged in surrounding states:

New York - \$270

New Jersey - \$125

Delaware - \$67 (pro-rated fee schedule)

Ohio - \$110

West Virginia - \$120

Maryland - \$100

This rulemaking will not put Pennsylvania at a competitive disadvantage.

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

This rulemaking will not affect other regulations of the Board or other state agencies.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This rulemaking will not require any additional recordkeeping or other paperwork.

(28) 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 determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

FEE REPORT FORM

Agency: State - BPOA **Date:** August 14, 2006
Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs
Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Pharmacy Change/ Inspection Required = \$125.00
Estimated Biennial Revenue: \$50,000.00 (400 applications x \$125.00)

Fee Description:

The fee will be charged for each application to modify an existing Pharmacy Permit when an inspection is required.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Pharmacy to process a change application requiring an inspection and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- (CT3) review application:	(1.50/hr)	38.37
Law Enforcement Staff- inspection:	(2.0/hr)	66.60
Administrative Overhead:		19.09
	Total Estimated Cost:	124.06
	Proposed Fee:	\$125.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$125.00 be established to process a pharmacy permit change application requiring an inspection.

Page 2 Pharmacy Change Requiring Inspection:

August 14, 2006

Board staff - receives application from a currently licensed pharmacy requesting a change that requires an inspection of facilities due to remodeling or expansion, etc. Reviews for completeness, contacts applicant to request any missing information, forwards request to Bur. of Enforcement and Investigation for inspection and confirmation of compliance with regulations. Following receipt of inspection results from B.E.I., processes through computer by issuing revised license or notifying applicant that additional information/clarification is necessary prior to processing.

FEE REPORT FORM

Agency: State - BPOA **Date:** August 14, 2006
Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs
Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Pharmacy Change/No Inspection Required = \$45.00

Estimated Biennial Revenue: \$18,000.00 (400 applications x \$45.00)

Fee Description:

The fee will be charged for each application to modify an existing Pharmacy Permit (change of manager, ownership, director or postal change not requiring an inspection).

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Pharmacy to process a change to modify an existing Pharmacy and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- (CT3) review application:	(1.00/hr)	25.58
Administrative Overhead:		19.09
	Total Estimated Cost:	44.67
	Proposed Fee:	\$45.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$45.00 be established to process a pharmacy permit change application if no inspection is required.

Page 2 Pharmacy Permit Change/No Insp. Required:

March 6, 2009

Board staff - receives application from a currently licensed pharmacy requesting a change that does not require an inspection of facilities (change in manager, change of ownership, etc.). Information is verified and change is processed by issuing revised license through computer or notifying applicant that additional information/clarification is necessary prior to processing.

FEE REPORT FORM

Agency: State - BPOA **Date:** August 14, 2006
Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs
Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Pharmacy Intern Registration Fee = \$35.00
Estimated Biennial Revenue: \$49,000.00 (1,400 applications x \$35.00)

Fee Description:

The fee will be charged to each applicant for registration as a Registered Intern.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Pharmacy to review and process an application for registration as a Registered Intern and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- (CT3) review application:	(0.50/hr)	12.79
Administrative Overhead:		19.09
	Total Estimated Cost:	31.88
	Proposed Fee:	\$ 35.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$35.00 be established to review an application for registration as a Pharmacist Intern.

Board staff receives application, reviews for completeness, contacts applicant to request any missing information, verifies applicant's educational background for compliance with regulations. Processes through computer and issues license if all requirements are met; notifies applicant of denial if ineligible.

FEE REPORT FORM

Agency: State - BPOA **Date:** August 14, 2006
Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs
Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

New Pharmacy Application Fee = \$125.00
Estimated Biennial Revenue: \$25,000.00 (200 applications x \$125.00)

Fee Description:

The fee will be charged to each applicant for registration of a new Pharmacy.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Pharmacy to review and process an application for registration for a new Pharmacy and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- (CT3) review application:	(1.50/hr)	38.37
Law Enforcement-Inspection:	(2.00/hr)	66.60
Administrative Overhead:		19.09
	Total Estimated Cost:	124.06
	Proposed Fee:	\$125.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$125.00 be established to process an application for registration of a new Pharmacy.

Board staff receives application, reviews for completeness, contacts applicant to request any missing information. Forwards to Bureau of Enforcement and Investigation for inspection & confirmation of compliance with regulations. After receipt of inspection results from B.E.I., processes through computer and issues license if all requirements are met; issues discrepancy notice if requirements are not met.

FEE REPORT FORM

Agency: State - BPOA **Date:** August 14, 2006
Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs
Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Each re-inspection after 1st failure (New Pharmacy) = \$115.00

Estimated Biennial Revenue: \$1,150.00 (10 applications x \$115.00)

Fee Description:

The fee will be charged for each re-inspection required to issue a new Pharmacy Permit.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Pharmacy to re-inspect (after 1st failure) a new Pharmacy prior to issuing permit and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- (CT3) review application:	(1.00/hr)	25.58
Law Enforcement-Inspection:	(2.00/hr)	66.60
Administrative Overhead:		19.09
	Total Estimated Cost:	111.27
	Proposed Fee:	\$115.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$115.00 be established to re-inspect (after 1st failure) a new Pharmacy.

If all requirements are not met at 1st inspection, Bureau of Enforcement and Investigation notifies Board Office. Board staff sends discrepancy, processes fee and information relating to corrections of discrepancies and issues new inspection request. BEI schedules another inspection. Results of the re-inspection are forwarded to Board Office for processing, either through computer to issue license if all requirements are met or by discrepancy notice if requirements are not met. The charge is imposed for every re-inspection necessary to determine compliance.

FEE REPORT FORM

Agency: State - BPOA **Date:** August 14, 2006
Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs
Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

License Application Fee = \$45.00

Estimated Biennial Revenue: \$ 57,375.00 (1,275 applications x \$45.00)

Fee Description:

The fee will be charged to each applicant for licensure as a Registered Pharmacist.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Pharmacy to review and process an application for licensure as a Registered Pharmacist and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- (CT3) review application:	(1.00/hr)	25.58
Administrative Overhead:		19.09
	Total Estimated Cost:	44.67
	Proposed Fee:	\$ 45.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$45.00 be established to review an application for licensure as a Registered Pharmacist.

Board staff receives application, reviews for completeness, contacts applicant to request any missing information, verifies applicant's educational background for compliance with regulations, verifies examination scores. Processes through computer and issues license if all requirements are met; notifies applicant of denial if ineligible.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

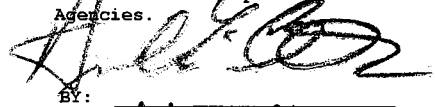
Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

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

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Pharmacy
(AGENCY)



BY: Andrew C. Clark
JUN 11 2009

DOCUMENT/FISCAL NOTE NO. 16A-5422

DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION:

BY: 
Michael A. Podgurski, RPh

(Deputy General Counsel
~~Chief Counsel,~~
~~Independent Agency~~
(~~State inapplicable title~~)

[] Check if applicable
Copy not approved.
Objections attached.

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)


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

FINAL RULEMAKING

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

49 Pa. Code § 27.91
FEES

Commonwealth of Pennsylvania



DEPARTMENT OF STATE

STATE BOARD OF PHARMACY

**FY 2007-2008 EXPENDITURES
FY 2008-2009 BUDGET INFORMATION
FY 2009-2010 BUDGET PLANNING**

November 18, 2008

COST CATEGORY DEFINITIONS

Board Administration: Timesheet based staff expenses (personnel, operating and fixed assets) for the licensing divisions in the Bureau of Professional and Occupational Affairs. Direct charges, i.e., printing and mailing costs for boards and commissions newsletters, renewal notices, informational handouts, Acts, Rules and Regulations are included in this cost category. Operating and fixed assets expenses that are distributed based on their benefit to the board using licensee population such as License 2000, printed forms, office supplies and interagency billings (i.e., Civil Service Commission, Comptroller's Office, etc.). Test Administration staff expenses (direct charges) may include freight charges for overnight delivery services and occasional travel charges incurred by the Test Administration staff. However, Nurse Board expenses are all direct charged.

Commissioner's Office: Timesheet based staff expenses (personnel, operating and fixed asset charges) for those staff assigned to Commissioner's Office and Revenue Office.

Departmental Services: Timesheet based charges for support provided by the various support offices within the agency. These include the Executive Office, which consist of offices of the Secretary of the Commonwealth, Executive Deputy Secretary, the Deputy Secretary of Regulatory Programs, Deputy Secretary for Planning and Service Delivery, Deputy Secretary of Administration, Office of Policy, Office of Chief Counsel, Office of Communications and Press, Office of Legislative Affairs, Bureau of Management Information Systems, Bureau of Finance and Operations, and Human Resources.

Legal Office: Timesheet based staff expenses (personnel, operating and fixed assets) for board counsel, board prosecutors, and support staff. Examples of direct charges are expert witness services, advertising costs of license suspensions, revocations or fines assessed.

Hearing Expense: Timesheet based staff expenses (personnel, operating and fixed assets) for staff assigned to the Hearing Examiners' Office. There are also direct charges for hearing related expenses such as court reporting services.

Legislative and Regulatory Analysis: Timesheet based staff expenses (personnel, operating and fixed assets) for legal review of policy and regulatory matters that affect all boards and commissions.

Enforcement and Investigation: Timesheet based staff expenses (personnel, operating and fixed assets) are captured for headquarters and the four regional offices, and the Professional Compliance Office with travel-related expenses listed as a separate line item. (Please note that pharmacy and mortuary regulatory inspectors are direct charged to the appropriate licensing board).

Professional Health Monitoring Program (client based): Staff expenses (personnel, operating and fixed assets) are distributed based on the number of clients for each of the participating licensing boards in this program. However, SARPH and PHP are direct charged to only those related boards.

Board Member Expenses (direct charges): Board member per diem, conference registration fees, travel expenses and membership dues for national professional organizations.

DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

3/6/2009

STATE BOARD OF PHARMACY

A	B	C	D	E	F
COST CATEGORY	FY 2007-2008 BUDGET	EXPENSES AS OF 10/17/08	REQUIRED TO FISCAL YEAR END	FY 2007-2008 PROJECTED EXPENSES	DIFFERENCE FROM BUDGETED
<u>ADMINISTRATIVE COSTS:</u>					
Board Administration	450,000.00	365,751.05	54,717.00	420,468.05	29,531.95
Commissioner's Office	35,000.00	50,947.55	(14,968.00)	35,979.55	(979.55)
Departmental Services	90,000.00	74,457.09	0.00	74,457.09	15,542.91
<u>LEGAL COSTS:</u>					
Legal Office	340,000.00	225,694.01	62,545.00	288,239.01	51,760.99
Hearing Expenses	20,000.00	24,106.31	581.00	24,687.31	(4,687.31)
Legislative & Regulatory Analysis	10,000.00	9,597.10	(1,499.00)	8,098.10	1,901.90
Enforcement and Investigation	700,000.00	780,567.00	(14,625.00)	765,942.00	(65,942.00)
Prof. Health Monitoring Program	156,000.00	152,171.98	3,279.00	155,450.98	549.02
Board Member Expenses	<u>61,000.00</u>	<u>34,318.34</u>	<u>0.00</u>	<u>34,318.34</u>	<u>26,681.66</u>
TOTAL BOARD COSTS:	<u>1,862,000.00</u>	<u>1,717,610.43</u>	<u>90,030.00</u>	<u>1,807,640.43</u>	<u>54,359.57</u>

FINANCIAL STATUS	ACTUAL FY 06-07	PROJECTED FY 07-08	PROJECTED FY 08-09	PROJECTED FY 09-10	PROJECTED FY 10-11
BEGINNING BALANCE:	(81,593.01)	1,269,771.91	121,094.64	2,098,094.64	734,094.64
REVENUE:	3,035,093.83	658,963.16 *	3,866,000.00	582,000.00	3,866,000.00
TOTAL REVENUE:	2,953,500.82	1,928,735.07	3,987,094.64	2,680,094.64	4,600,094.64
EXPENSES/BUDGET:	1,683,728.91	1,807,640.43 **	1,889,000.00	1,946,000.00	2,004,000.00
REMAINING BALANCE:	1,269,771.91	121,094.64	2,098,094.64	734,094.64	2,596,094.64

* ACTUAL

** ESTIMATED

DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

3/6/2009

STATE BOARD OF PHARMACY

COMPARISON OF FISCAL YEAR 2006-07 EXPENSES vs. FY 2007-08 EXPENSES

<u>COST CATEGORY</u>	<u>ACTUAL FY 2006-2007</u>	<u>PROJECTED FY 2007-2008</u>
<u>ADMINISTRATIVE COSTS:</u>		
Board Administration	412,292.42	420,468.05
Commissioner's Office	30,885.29	35,979.55
Departmental Services	73,247.57	74,457.09
<u>LEGAL COSTS:</u>		
Legal Office	315,713.63	288,239.01
Hearing Expenses	19,192.75	24,687.31
Legislative & Regulatory Analysis	6,830.66	8,098.10
Enforcement and Investigation	647,126.85	765,942.00
Prof. Health Monitoring Program	150,936.27	155,450.98
Board Member Expenses	<u>27,503.47</u>	<u>34,318.34</u>
TOTAL BOARD COSTS:	<u>1,683,728.91</u>	<u>1,807,640.43</u>

REVENUE BY SOURCE DEFINITIONS

Renewals: Revenue collected from license and certificate renewal fees during the renewal period.

Applications: Revenue collected for applications received from candidates for new licensure, certification or registration.

Letters of Good Standing/Certifications: Revenue collected for requests from licensees and certificate holders for Letters of Good Standing and Certifications. These letters and certifications are used by the licensees or certificate holders to send to other jurisdictions to verify that the holder of the license or certificate is in “good standing” with the Commonwealth of PA.

Permits: Revenue collected for the issuance of temporary licenses.

Act 48: Revenue collected from citations issued and civil penalties imposed by the Bureau of Enforcement and Investigation’s inspectors for non-compliance to standards found during routine inspections.

Changes: Revenue collected from initial inspection and re-inspection when site/facility changes/modifications are made.

Fines: Revenue deposited as a result of penalties imposed for an offense that violates the Board or Commission’s licensing laws and/or regulations.

Licensee List: Revenue collected for licensee list requests from the public through the Bureau of Professional and Occupational Affairs. The information provided on these lists include name, address, license number, county, certification and expiration date.

DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

STATE BOARD OF PHARMACY
FY06-07 AND FY07-08 SOURCES OF REVENUE

<u>REVENUE BY SOURCE</u>	<u>FY06-07 ACTUAL</u>	<u>FY07-08 as of 10/16/2008</u>	<u>BIENNIAL TOTAL</u>
Renewals	2,694,820.00	342,510.00	3,037,330.00
Applications	138,540.00	138,080.00	276,620.00
Letters of Good Standing/Certifications	16,165.00	15,280.00	31,445.00
Fines	125,768.00	93,687.00	219,455.00
Act 48	12,950.00	17,300.00	30,250.00
Licensee List	<u>46,850.83</u>	<u>52,106.16</u>	<u>98,956.99</u>
TOTAL REVENUE	<u>3,035,093.83</u>	<u>658,963.16</u>	<u>3,694,056.99</u>

DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

3/6/2009

STATE BOARD OF PHARAMCY

A	B	C	D	E	F
COST CATEGORY	FY 2008-2009 BUDGET	EXPENSES AS OF 10/17/2008	REQUIRED TO FISCAL YEAR END	FY 2008-2009 PROJECTED EXPENSES	DIFFERENCE FROM BUDGETED
<u>ADMINISTRATIVE COSTS:</u>					
Board Administration	441,000.00	26,168.04	414,831.96	441,000.00	0.00
Commissioner's Office	37,000.00	0.00	37,000.00	37,000.00	0.00
Departmental Services	95,000.00	0.00	95,000.00	95,000.00	0.00
<u>LEGAL COSTS:</u>					
Legal Office	333,000.00	275.65	332,724.35	333,000.00	0.00
Hearing Expenses	21,000.00	413.85	20,586.15	21,000.00	0.00
Legislative & Regulatory Analysis	11,000.00	0.00	11,000.00	11,000.00	0.00
Enforcement and Investigation	723,000.00	74,421.25	648,578.75	723,000.00	0.00
Prof. Health Monitoring Program	164,000.00	0.00	164,000.00	164,000.00	0.00
Nurse Peer Assistance Program	0.00	0.00	0.00	0.00	0.00
Board Member Expenses	<u>64,000.00</u>	<u>6,449.04</u>	<u>57,550.96</u>	<u>64,000.00</u>	<u>0.00</u>
TOTAL BOARD COSTS:	<u>1,889,000.00</u>	<u>107,727.83</u>	<u>1,781,272.17</u>	<u>1,889,000.00</u>	<u>0.00</u>

FINANCIAL STATUS	PROJECTED FY 07-08	PROJECTED FY 08-09	PROJECTED FY 09-10	PROJECTED FY 10-11	PROJECTED FY 11-12
BEGINNING BALANCE:	1,269,771.91	121,094.64	2,098,094.64	734,094.64	2,596,094.64
REVENUE:	658,963.16 *	3,866,000.00	582,000.00	3,866,000.00	582,000.00
TOTAL REVENUE:	1,928,735.07	3,987,094.64	2,680,094.64	4,600,094.64	3,178,094.64
EXPENSES/BUDGET:	1,807,640.43 **	1,889,000.00	1,946,000.00	2,004,000.00	2,064,000.00
REMAINING BALANCE:	121,094.64	2,098,094.64	734,094.64	2,596,094.64	1,114,094.64

*ACTUAL

**ESTIMATED

STATE BOARD OF PHARAMCY

COMPARISON OF FISCAL YEAR 2007-2008 EXPENSES vs. FY 2008-2009 BUDGET

<u>COST CATEGORY</u>	<u>PROJECTED FY 2007-2008</u>	<u>BUDGETED FY 2008-2009</u>
<u>ADMINISTRATIVE COSTS:</u>		
Board Administration	420,468.05	441,000.00
Commissioner's Office	35,979.55	37,000.00
Departmental Services	74,457.09	95,000.00
<u>LEGAL COSTS:</u>		
Legal Office	288,239.01	333,000.00
Hearing Expenses	24,687.31	21,000.00
Legislative & Regulatory Analysis	8,098.10	11,000.00
Enforcement and Investigation	765,942.00	723,000.00
Prof. Health Monitoring Program	155,450.98	164,000.00
Nurse Peer Assistance Program	0.00	0.00
Board Member Expenses	<u>34,318.34</u>	<u>64,000.00</u>
TOTAL BOARD COSTS:	<u>1,807,640.43</u>	<u>1,889,000.00</u>

CATEGORY DESCRIPTION

BOARD TRAVEL: Regularly scheduled board meetings; special board meetings, hearings, committee meetings; special requested board meeting attendance. All travel includes hotel rooms, meals, airline tickets, and shuttle costs per person.

BOARD CONFERENCE REGISTRATIONS: Registrations for each participant who are required to pay a conference fee.

BOARD CONFERENCE TRAVEL: Expenses for all conference related travel. These include hotel, meals, travel (air and land), incidental travel (i.e. shuttle) for each conference participant.

SPECIAL MAILINGS: These include the cost of printing annual newsletters, laws, rules and regulations, guidelines, policies, brochures, and memorandums to licensees for special programs.

POSTAGE: Postage costs for mailing newsletters, rules and regulations, individual mail, board materials and renewals.

MEMBERSHIP DUES: The costs attributed to membership in national and state associations related to board operations.

**DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

3/6/2009

STATE BOARD OF PHARMACY

CATEGORY	FY 06/07 EXPENSES	FY 07/08 BUDGETED	FY 08/09 BOARD REQUEST	FY 08/09 GOV. BUDGET
Board Travel	\$15,990.93	\$26,250.00	\$27,563.00	\$27,563.00
Board Conference Registrations	\$1,595.00	\$5,775.00	\$6,064.00	\$6,064.00
Board Conference Travel	\$2,926.25	\$11,550.00	\$12,128.00	\$12,128.00
Special Mailings:				
Newsletters	\$26,602.42	\$21,000.00	\$22,050.00	\$22,050.00
Rules and Regulations	\$19,435.00	\$19,425.00	\$20,396.00	\$20,396.00
Other	\$0.00	\$0.00	\$0.00	\$0.00
Postage:				
Newsletters	\$4,681.37	\$19,950.00	\$20,948.00	\$20,948.00
Rules and Regulations	\$1,959.42	\$12,600.00	\$13,230.00	\$13,230.00
Other	\$4,286.40	\$0.00	\$0.00	\$0.00
Membership Dues	\$250.00	\$350.00	\$350.00	\$350.00
TOTAL BOARD REQUEST:	\$77,726.79	\$116,900.00	\$122,729.00	\$122,729.00

**DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

3/6/2009

STATE BOARD OF PHARMACY

CATEGORY	FY 07/08 ALLOTMENT	FY 07/08* EXPENSE	FY 08/09 BUDGETED	FY 09/10 REQUEST
Board Travel	\$26,250.00	\$19,383.01	\$27,563.00	\$29,492.00
Board Conference Registrations	\$5,775.00	\$1,545.00	\$6,064.00	\$6,489.00
Board Conference Travel	\$11,550.00	\$5,445.41	\$12,128.00	\$12,977.00
Special Mailings:				
Newsletters	\$21,000.00	\$9,771.65	\$22,050.00	\$23,594.00
Rules and Regulations	\$19,425.00	\$2,956.00	\$20,396.00	\$21,824.00
Other	\$0.00	\$0.00	\$0.00	\$0.00
Postage:				
Newsletters	\$19,950.00	\$4,358.37	\$20,948.00	\$22,414.00
Rules and Regulations	\$12,600.00	\$731.12	\$13,230.00	\$14,156.00
Other	\$0.00	\$2.64	\$0.00	\$0.00
Membership Dues	\$350.00	\$450.00	\$350.00	\$350.00
TOTAL BOARD REQUEST:	\$116,900.00	\$44,643.20	\$122,729.00	\$131,296.00

* As of 10/17/2008

Approved by:

Board Chairperson

Reviewed by:

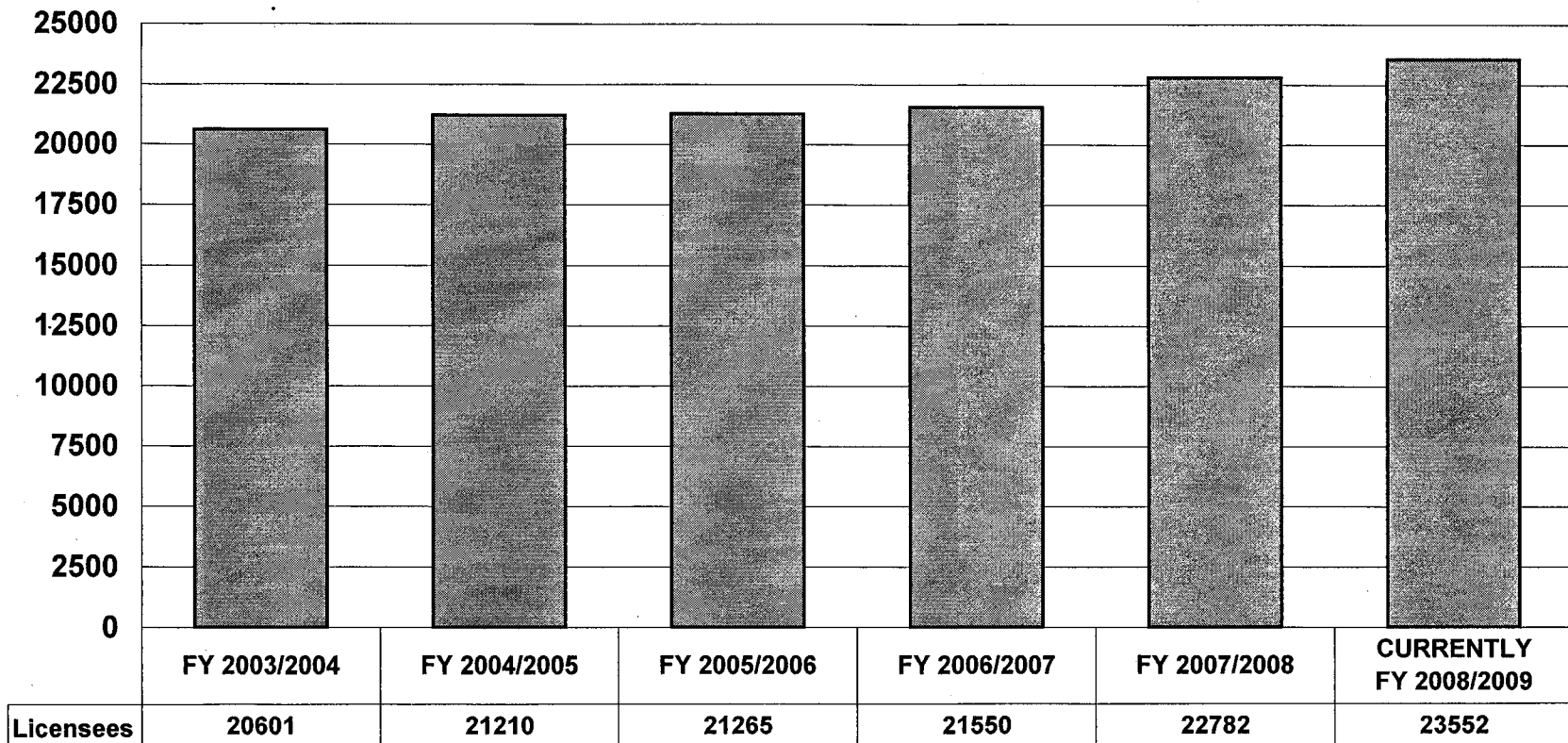
Commissioner, BPOA

Prepared by:

Board Budget Coordinator

Budget Officer
Department of State

STATE BOARD OF PHARMACY RENEWABLE LICENSEE COUNTS



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

Description and Need for the Rulemaking

Section 8.2(a) of the Pharmacy Act (act) (63 P.S. § 390-8.2(a)) requires the Board to fix the fees, including renewal of licenses and permits, by regulation and if the revenue generated by fees, fines and civil penalties is not sufficient to match expenditures over a 2-year period, the Board is required to increase those fees by regulation. Section 8.2(b) of the act requires the Board to increase fees when revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures.

In March, 2008, the Department of State’s division of fiscal management projected that, without an increase in the biennial renewal fee, Board fiscal deficits will grow as follows:

<u>fiscal year</u>	<u>beginning balance</u>	<u>revenue</u>	<u>expenses</u>	<u>ending balance</u>
2007-08	\$1,317,335.	\$500,000.	\$1,842,000.	(\$24,665.)
2008-09	(\$24,665.)	\$3,000,000.	\$1,934,000.	\$1,041,335.
2009-10	\$1,041,335.	\$500,000.	\$2,031,000.	(\$489,665.)
2010-11	(\$489,665.)	\$3,000,000.	\$2,133,000.	\$377,335.
2011-12	\$377,335.	\$500,000.	\$2,240,000.	(\$1,362,665.)
2012-13	(\$1,362,665.)	\$3,000,000.	\$2,352,000.	(\$714,665.)
2013-14	(\$714,665.)	\$500,000.	\$2,470,000.	(\$2,684,665.)

If, however, the renewal fee for pharmacies is increased from \$100 to \$125 beginning with the 2009-11 renewal period and the renewal fee for pharmacists is increased from \$150 to \$190 beginning with the 2010-12 renewal period, the fiscal management division projected that the Board would recover the deficit as follows:

<u>fiscal year</u>	<u>beginning balance</u>	<u>revenue</u>	<u>expenses</u>	<u>ending balance</u>
2007-08	\$1,317,335.	\$500,000.	\$1,842,000.	(\$24,665.)
2008-09	(\$24,665.)	\$3,000,000.	\$1,934,000.	\$1,041,335.
2009-10	\$1,041,335.	\$582,000.	\$2,031,000.	(\$407,665.)
2010-11	(\$726,926.)	\$3,866,000.	\$2,133,000.	\$1,325,335.
2011-12	\$1,325,335.	\$582,000.	\$2,240,000.	(\$332,665.)
2012-13	(\$332,665.)	\$3,866,000.	\$2,352,000.	\$1,181,335.
2013-14	\$1,181,335.	\$582,000.	\$2,470,000.	(\$706,655.)

Although the Board was presented with projections for other amounts of increase in the renewal fee, the Board concluded that increasing the biennial renewal fee approximately 25% as shown above would be the least restrictive means of eliminating the projected deficits and restoring the Board’s fiscal integrity as required by section 8.2 of the act.

As part of this process, the Board also considered the application fees that it charges. In

general, the fee should be enough to cover the cost of providing that service. Based upon estimates of the amount of staff time necessary to process various applications and the cost of employing staff, together with necessary overhead, and rounding to the nearest \$5, the fiscal management division recommended that the Board increase application fees as follows: pharmacy intern certificate from \$30 to \$35, pharmacist license from \$40 to \$45, new pharmacy permit from \$100 to \$125, reinspection of new pharmacy after failure of inspection from \$90 to \$115, pharmacy permit change without inspection from \$30 to \$45, and pharmacy permit change with inspection from \$95 to \$125. Because the Board should charge application fees sufficient to recover the cost of providing the services, the Board proposed to increase its application fees as recommended.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 38 Pa.B. 4784 (August 30, 2008) with a 30-day public comment period. The Board received no written comments from the public. The Board received comments from the House Professional Licensure Committee (HPLC) as part of its review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1-745.12). The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) or the Independent Regulatory Review Commission (IRRC)

The HPLC first noted that the Board did not propose to increase certain other application fees and requested the Board’s rationale in increasing only the identified fees. While the fiscal management division looked at these fees as well, its analysis showed that the cost of providing those services was being recovered by the current fees. Therefore, the Board did not propose to increase those fees.

The HPLC also requested information pertaining to the major cost centers of the Board and any significant increases in their expenditures. According to the division of fiscal management, as of March, 2009, the Board’s actual expenses for various cost centers have been as follows:

Category	FY 2004-05 (actual)	FY 2005-06 (actual)	FY 2006-07 (actual)	FY 2007-08 (projected)	FY 2008-09 (budgeted)
Bd. Admin.	294,282.75	240,641.66	412,292.42	420,468.05	441,000.
Cmmsnr. Office	25,252.94	28,724.80	30,885.29	35,979.55	37,000.
Dept. Services	77,269.68	79,087.31	73,247.57	74,475.09	95,000.
Legal Office	338,508.09	315,962.44	315,713.63	288,239.01	333,000.
Hearing Exp.	18,478.61	19,968.82	19,192.75	24,687.31	21,000.
Leg./Reg. Anal.	4,346.87	7,360.86	6,830.66	8,098.10	11,000.
Enf. & Invest.	643,654.07	571,909.98	647,126.85	765,942.00	723,000.
PHMP	102,919.51	137,929.05	150,936.27	155,450.98	164,000.
Bd. Members	28,172.42	33,145.54	27,503.47	34,318.34	64,000.
Total Costs	\$1,532,884.94	\$1,434,730.46	\$1,683,728.91	\$1,807,640.43	\$1,889,000.

As noted in the preamble for publication as proposed rulemaking, the increases in the Board’s

biennial expenses occurred primarily in administrative costs and costs for inspection, investigation and enforcement (Bureau of Enforcement and Investigation). Legal office costs remained about the same, despite the continued rise in the number of complaints from previous years. Administrative costs likely increased because the Board began receiving applications for the authority to administer injectable medications, immunizations and biologicals. Additionally, vacant pharmacy inspector positions were filled, which led to the increase in inspection, investigation and enforcement costs, both due to salaries and increased number of inspections.

In November, 2008, the fiscal management division provided updated projections, based upon the anticipated increase in fees and actual expenses and revenue, that would permit the Board to recover the deficit as follows:

<u>fiscal year</u>	<u>beginning balance</u>	<u>revenue</u>	<u>expenses</u>	<u>ending balance</u>
2006-07	(\$81,593.)	\$3,035,094.	\$1,683,729.	\$1,269,772.
2007-08	\$1,269,772.	\$658,963.	\$1,807,640.	\$121,095.
2008-09	\$121,095.	\$3,866,000.	\$1,889,000.	\$2,098,095.
2009-10	\$2,098,095.	\$582,000.	\$1,946,000.	\$734,095.
2010-11	\$734,095.	\$3,866,000.	\$2,004,000.	\$2,596,095.
2011-12	\$2,596,095.	\$582,000.	\$2,064,000.	\$1,114,095.

The Board has not found a need to revise its rulemaking in response to the comments.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector. The final-form rulemaking will increase certain application fees charged by the Board and will increase the biennial renewal fee for pharmacists and pharmacies in this Commonwealth.

Effective date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. The increased renewal fee for pharmacies will first be charged for the biennial renewal period beginning September 1, 2009, and the increased renewal fee for pharmacists will first be charged for the biennial renewal period beginning October 1, 2010.

Statutory Authority

The final rulemaking is authorized under section 8.2 of the act (63 P.S. § 390-8.2).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 18, 2008,

the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 4784, to IRRC and the chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, 2009, the final-form rulemaking was approved by the HPLC. On _____, 2009, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5(g) of the Regulatory Review Act, IRRC was deemed to have approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Regulatory Unit Counsel, Department of State, by mail to P.O. Box 2649, Harrisburg, PA 17105-2649, by telephone at (717) 783-7156, or by e-mail at st-pharmacy@state.pa.us.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Pharmacy Act.

Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board at 49 Pa. Code Chapter 27 are amended, by amending § 27.91, to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

Michael A. Podgurski, RPh, Chairperson
State Board of Pharmacy

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY

FEES

§ 27.91. Schedule of fees.

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

Application for pharmacy intern certificate[\$30] \$35

Application for pharmacist license[\$40] \$45

* * * * *

Registered pharmacist biennial renewal[\$150] \$190

* * * * *

New pharmacy permit application[\$100] \$125

Reinspection of new pharmacy after failure at first inspection[\$90] \$115

Pharmacy permit change without inspection[\$30] \$45

Pharmacy permit change when inspection required[\$95] \$125

* * * * *

Biennial renewal of pharmacy permit[\$100] \$125

* * * * *

ops a dental treatment plan, authorizes the performance of the radiologic services to be performed within 1 year of the examination, and takes full professional responsibility for performance of the dental hygienist.

(c) Auxiliary personnel who have passed the radiologic procedure examination adopted by the Board may perform radiologic procedures on the premises of a dentist under the direct supervision of a dentist. The dentist shall be on the premises when a radiologic procedure is performed, but is not required to personally observe performance of the procedure.

Subchapter F. CONTINUING DENTAL EDUCATION § 33.402. Continuing education subject areas.

(a) [The] Except as provided in subsections (c), (d) and (e), the required credit hours shall be completed in subjects which contribute directly to the maintenance of clinical competence of a dentist, dental hygienist, public health dental hygiene practitioner or expanded function dental assistant. Examples of acceptable subjects include:

* * * * *

(b) Credit hours will not be awarded in nonclinical subjects, including:

* * * * *

(5) Communication skills, except as provided in subsection (c).

(c) A dental hygienist may complete no more than 3 of the required 20 hours of continuing education in courses relating to communication skills.

(d) A public health dental hygiene practitioner shall complete 5 of the required 20 hours of continuing education in public health-related courses.

(e) A school dental hygienist who is certified as a public health dental hygiene practitioner and who, as a certified educational specialist is required to obtain continuing professional education under the act and under section 1205.2 of the Public School Code of 1949 (24 P. S. § 12-1205.2) may submit evidence of the completion of education courses approved for certification by the school district to meet the 20-hour continuing education requirement.

[Pa.B. Doc. No. 08-1591. Filed for public inspection August 29, 2008, 9:00 a.m.]

STATE BOARD OF PHARMACY

**[49 PA. CODE CH. 27]
Fees**

The State Board of Pharmacy (Board) proposes to amend § 27.91 (relating to schedule of fees) to read as set forth in Annex A. The proposed amendment would increase the application fees for the pharmacy intern certificate, pharmacist license, new pharmacy permit,

reinspections, pharmacy permit changes and the biennial renewal fees for pharmacist licenses and pharmacy permits.

Effective Date

The amendment will be effective upon final-form publication in the *Pennsylvania Bulletin*. The increased biennial renewal fees will take effect beginning with the pharmacy permit biennial renewal period commencing on September 1, 2009, and the pharmacist license biennial renewal period commencing on October 1, 2010. The other fee increases will take effect upon final-form publication.

Statutory Authority

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

Background and Need for Amendment

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

With the exception of the biennial renewal fees, the Board has not revised its fees since the 1990s. The application fees are now being revised to reflect the current cost of processing an application. The inspection fees are being revised to reflect the current cost to the Board of the inspectors performing the required inspection. The biennial renewal fees were last raised in 2006. Initially, the Board conservatively raised those fees in attempt to not place a hardship on its licensees with a large increase. The Board reviews its revenues on an annual basis and subsequent reviews have shown that another increase is necessary to support its operations. The Board is again being conservative in raising fees so as not to place a hardship on its licensees. Given that a deficit is still projected, the Board will evaluate another fee increase in the future. However, if pending legislation is passed, increased revenue from the registration of pharmacy technicians and imposing investigative costs for disciplinary actions could negate the necessity to further raise renewal fees.

At its April 17, 2007, Board meeting and again at its June 19, 2007, and March 18, 2008, Board meetings, the Bureau of Finance and Operations (BFO) presented a summary of the Board's revenues and expenses for Fiscal Years (FY) 2004-2005, 2005-2006 and 2006-2007, and projected revenues and expenses for FYs 2007-2008—2013-2014. The summary, presented in the following table, demonstrated that the Board must raise fees to maintain a positive balance after the pharmacist renewal takes place in the even-numbered years.

2004-2005 beginning balance	324,955.04
FY 04-05 revenue	2,304,562.44
FY 04-05 expenses	1,655,000.00
Remaining balance	974,517.48

2005-2006 beginning balance	974,517.48
FY 05-06 revenue	529,381.83
FY 05-06 expenses	1,850,000.00
Remaining balance	(346,100.69)

2006-2007 beginning balance	(346,100.69)
FY 06-07 revenue	3,035,093.83
Prior year returned funds	122,155.06
Adjust for prior year expenses	243,901.49
FY 06-07 projected expenses	1,788,000.00
Remaining balance	779,206.71
2007-2008 beginning balance	779,206.71
FY 07-08 projected revenue	500,000.00
Prior year returned funds	576,709.95
FY 07-08 projected expenses	1,842,000.00
Remaining balance	(24,665.09)
2008-2009 beginning balance	(24,665.09)
FY 08-09 projected revenue	3,000,000.00
FY 08-09 projected expenses	1,934,000.00
Remaining balance	1,041,334.91
2009-2010 beginning balance	1,041,334.91
FY 09-10 projected revenue	502,000.00
FY 09-10 projected expenses	2,031,000.00
Remaining balance	(726,925.77)
2010-2011 beginning balance	(726,925.77)
FY 10-11 projected revenue	3,866,000.00
FY 10-11 projected expenses	2,133,000.00
Remaining balance	1,325,334.91
2011-2012 beginning balance	1,325,334.91
FY 11-12 projected revenue	582,000.00
FY 11-12 projected expenses	2,240,000.00
Remaining balance	(332,665.09)
2012-2013 beginning balance	(332,665.09)
FY 12-13 projected revenue	3,866,000.00
FY 12-13 projected expenses	2,352,000.00
Remaining balance	1,181,334.91
2013-2014 beginning balance	1,181,334.91
FY 13-14 projected revenue	582,000.00
FY 13-14 projected expenses	2,470,000.00
Remaining balance	(706,655.09)

As the table indicates, at the close of FY 2005-2006, the Board's expenses exceeded its revenues by \$346,100.69. While the pharmacist renewal brought the Board's account back to a positive balance in FY 2006-2007, in FY 2007-2008, the Board will run at a deficit again and in the off-renewal years the Board will continue to have a deficit. BFO anticipates that the proposed new fees will enable the Board to recapture the deficits every other year.

The increases in the Board's biennial expenses occurred primarily in administrative costs and law enforcement costs. Administrative costs increased from approximately \$343,682 in FY 2005-2006 to approximately \$513,063 in FY 2006-2007. Law enforcement (the Bureau of Enforcement and Investigation) expenditures increased from approximately \$551,194 in FY 2005-2006 to approximately \$630,080 in FY 2006-2007. Legal office costs remained about the same, however the number of complaints filed continued to rise from previous years. Administrative costs likely increased because the Board began receiving applications for the authority to administer injectable medications, immunizations and biologicals. Additionally, vacant pharmacy inspector positions were filled which led to the increase in law enforcement costs both due to the salaries and the increased inspections the additional inspectors performed.

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. Before the Board dramatically raises its renewal fees it prefers to wait until two pieces of legislation that would bring significantly more revenue to the Board complete their journey through the legislative process. If either of these pieces of legislation fails to be enacted during this legislative session, the Board will reevaluate. In addition to increasing fees, the Board is looking at ways to streamline procedures to cut costs; however, 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 Amendment

Based upon the previous expense and revenue estimates provided to the Board, the Board proposes to amend § 27.91 to increase the fee for biennial renewal of licenses for pharmacists from \$150 to \$190 and increase the biennial renewal fee for pharmacy permits from \$100 to \$125. The Board is also proposing to increase the application fee for a pharmacy intern certificate from \$30 to \$35, the application fee for a pharmacist license from \$40 to \$45, the application fee for a new pharmacy permit from \$100 to \$125, the fee for reinspection of a new pharmacy after failure at first inspection from \$90 to \$115, the application fee for a pharmacy permit change without inspection from \$30 to \$45 and the application fee for a pharmacy permit change when inspection required from \$95 to \$125.

Fiscal Impact

The proposed amendment will increase the biennial renewal fees for pharmacists and pharmacies as well as several other fees the Board charges for its services to applicants. The proposed amendment should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

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

Sunset Date

The act requires that the Board monitor its revenue and expenses on a FY 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)), the Board submitted a copy of this proposed rulemaking on August 18, 2008, to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee (Committees). In addition to submitting the proposed amendment, the Board has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Board. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has comments, recommendations or objections regarding any portion of the proposed rulemaking, it will

notify the Board within 30 days after the close of the public comment period. The notification must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the General Assembly and the Governor prior to publication of the amendment.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Melanie Zimmerman, Executive Secretary, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed amendment in the *Pennsylvania Bulletin*.

MICHAEL A. PODGURSKI, R. Ph.,
Chairperson

Fiscal Note: 16A-5422. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY FEES

§ 27.91. Schedule of fees.

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

Application for pharmacy intern certificate	[\$30]	\$35
Application for pharmacist license	[\$40]	\$45
* * * * *		
Registered pharmacist biennial renewal	[\$150]	\$190
* * * * *		
New pharmacy permit application	[\$100]	\$125
Reinspection of new pharmacy after failure at first inspection	[\$90]	\$115
Pharmacy permit change without inspection	[\$30]	\$45
Pharmacy permit change when inspection required	[\$95]	\$125
* * * * *		
Biennial renewal of pharmacy permit ...	[\$100]	\$125
* * * * *		

[Pa.B. Doc. No. 08-1592. Filed for public inspection August 29, 2008, 9:00 a.m.]

**Commentator List
Regulation 16A-5422
Fees**

There are no commentators for this regulation.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

DATE: April 30, 2009

SUBJECT: Final Rulemaking:
State Board of Pharmacy
Fees (16A-5422)

TO: Andrew C. Clark, Deputy General Counsel
Office of General Counsel

FROM: Thomas A. Blackburn, Regulatory Unit Counsel
Department of State

AM

There are no significant legal and policy issues presented by this amendment to the regulations of the State Board of Pharmacy to increase certain fees charged by the Board.

I certify that I have reviewed this regulation for form and legality, that I have discussed any legal and policy issues with the administrative officers responsible for the program, and that all information contained in the Preamble and Annex is correct and accurate.

TAB



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PHARMACY
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7156

June 29, 2009

The Honorable Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

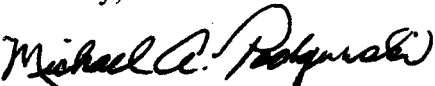
Re: Final Regulation
State Board of Pharmacy
16A-5422: Fees

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Pharmacy pertaining to Fees.

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

Sincerely,


Michael A. Podgurski, R. Ph, Chairperson
State Board of Pharmacy

MAP/TAB:rs

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Peter V. Marks, Executive Deputy Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel & Senior Counsel in Charge
Department of State
Carole L. Clarke, Counsel
State Board of Pharmacy
State Board of Pharmacy

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

I.D. NUMBER: 16A-5422
 SUBJECT: FEES
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF PHARMACY

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

RECEIVED
 2009 JUN 29 AM 10:01
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
6/29/09	<i>Kristen Fuller</i>	MAJORITY CHAIRMAN <i>Michael P. D'Alfonso</i>
6-29-09	<i>[Signature]</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <i>[Signature]</i>
6/29/09	<i>Kathy Coope</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)