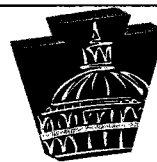


Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

INDEPENDENT REGULATORY
REVIEW COMMISSION

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SECTION I: PROFILE

(1) Agency:

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

(2) Agency Number:

Identification Number: 16A-5136

IRRC Number:

2809

(3) Short Title:

Biennial Renewal Fees

(4) PA Code Cite:

49 Pa. Code §§21.5, 21.147, 21.253, 21.705

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

Primary Contact: Teresa Lazo, Counsel, State Board of Nursing, tlazo@state.pa.us

Secondary Contact: Joyce McKeever, Deputy Chief Counsel, jmckeever@state.pa.us

2601 N. Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649

telephone: 717-783-7200; fax: 717-787-0251

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

Ann Steffanic, Board Administrator, State Board of Nursing

ST-NURSING@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 regulation increases the biennial renewal fee for licensed practical nurses (LPNs), professional nurses (RNs), certified registered nurse practitioners (CRNPs), and licensed dietitian-nutritionists (LDNs). The new fees are necessary to cover the costs of sustaining the Board's operations.

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

- | | |
|---|---|
| A. The date by which the agency must receive public comments: | 30 days after publication |
| B. The date or dates on which public meetings or hearings will be held: | none |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | within 2 years |
| D. The expected effective date of the final-form regulation: | upon publication |
| E. The date by which compliance with the final-form regulation will be required: | license renewal following final publication |
| F. The date by which required permits, licenses or other approvals must be obtained: | not applicable |

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

The Department of State, Bureau of Finance and Operations, makes annual reports to the Board in November or December. After receiving this report, the Board determines whether to make any amendments to the biennial renewal fees.

Regulatory Analysis Form

SECTION II: STATEMENT OF NEED

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

Section 11.2 of the Professional Nursing Law, Act of December 20, 1985, P.L. 409, as amended, 63 P.S. §221.2.

Section 17.5 of the Practical Nurse Law, Act of December 20, 1985, P.L. 423, as amended, 63 P.S. §667.5.

(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. The Board is required by section 11.2(b) of the Professional Nursing Law (63 P.S. §221.2) and section 17.5 of the Practical Nurse Law (63 P.S. §667.5(b)) to set fees to raise sufficient revenue to meet expenditures. It is anticipated that without raising fees the Board will realize a significant deficit.

(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.

Nonregulation would adversely impact the fiscal integrity of the Board.

Regulatory Analysis Form

(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 BFO provided information to the Board, which can be sent directly from BFO upon request.

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

Nonregulation would adversely impact the fiscal integrity of the Board. Licensees will pay higher biennial renewal fees.

(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.

Licensees will be required to comply with the regulation. The Board licenses 206,565 RNs; 53,635 LPNs; 6,481 CRNPs; and 3,072 LDNs.

Regulatory Analysis Form

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.

Upon implementation, the increased biennial cost will be as follows:

LPNs 53,635 x \$60 increase = \$3,218,100.00

RNs 206,565 x \$65 increase = \$13,426,725.00

LDNs 3,072 x \$ 65 increase = \$199,680.00

CRNPs 6,481 x \$75 increase = \$486,075.00

(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.

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. Explain how the dollar estimates were derived.

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.

	FY 2008-2009	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	0	3,735,774	2,709,154	4,272,124	3,805,094	6,938,914
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	3,735,774	2,709,154	4,272,124	3,805,094	6,938,914
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

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

Program	FY 05-06	FY 06-07	FY 07-08	FY 08-09 (projected)
State Board of Nursing	6,575,163	7,385,284	8,232,049	9,593,000

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

The amendments to the existing regulations are mandated by section 11.2 of the Professional Nursing Law (63 P.S. §221.2) and section 17.5 of the Practical Nurse Law (63 P.S. §667.5).

Regulatory Analysis Form

(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.

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.

(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 based its proposed fee increase on the recommendations from the BFO. The Board concludes that its proposal is the least burdensome acceptable alternative.

(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.

No federal standards apply.

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

The Board's biennial renewal fees compare favorably with those in surrounding states. Local LPN fees range from a low of \$65 per triennial period in New York to a high of \$120 per biennial period in New Jersey. Intermediate biennial fees for LPNs are as follows: Maryland \$110, Delaware \$97, West Virginia \$100.

Local RN fees range from a low of \$65 per triennial period in New York to a high of \$142 per biennial period in Maryland. Intermediate biennial fees for RNs are as follows: Delaware \$97, New Jersey \$120, West Virginia \$70.

Local CRNP fees range from a low of \$30 per triennial period in New York to a high of \$160 per biennial period in New Jersey. Intermediate biennial fees for CRNPs are as follows: Maryland \$152, Delaware \$97, West Virginia \$70.

The proposed increases for LDNs are very favorable. In New York, LDNs pay \$155 triennially and in Delaware LDNs pay \$192 biennially.

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

No.

Regulatory Analysis Form

(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.

There are no legal, accounting or consulting procedures or additional recordkeeping or other paperwork which will be required for implementation of the regulation.

(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.

There are no affected groups such as minorities, elderly, small businesses or farmers know to the Board.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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REVIEW COMMISSION

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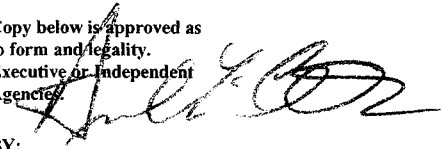
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form and legality. Attorney General

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copy of a document issued, prescribed or promulgated by:

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to form and legality.
Executive or Independent
Agency


BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Nursing
(AGENCY)


BY: _____
Andrew C. Clark

SEP 22 2009

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-5136

DATE OF ADOPTION: _____

BY: 
Ann L. O'Sullivan, PhD, FAAN, CRNP

SEP 2 2009

DATE OF APPROVAL

(Executive Deputy General Counsel
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.

PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF NURSING
49 PA. CODE, CHAPTER 21
BIENNIAL RENEWAL FEES

The State Board of Nursing (Board) proposes to amend §§ 21.5, 21.147, 21.253 and 21.705, to read as set forth in Annex A. The proposed rulemaking provides for a new biennial renewal fee for licensed practical nurses (LPNs), professional nurses (RNs), Certified Registered Nurse Practitioners (CRNPs) and Licensed Dietitian-Nutritionists (LDNs).

Effective Date

The amendments will become effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

Section 11.2 of the Professional Nursing Law (RN act) (63 P.S. § 221.2) and section 17.5 of the Practical Nurse Law (63 P.S. § 667.5) require the Board to set fees sufficient to meet expenditures.

Background and Purpose

The Board receives an annual report from the Bureau of Finance and Operations of the Department of State (BFO) regarding its income and expenses. The last increase to biennial renewal fees for nurses occurred November 18, 2000, when the fee for LPNs was increased from \$16 to \$40; the fee for RNs was increased from \$21 to \$45; and the fee for CRNPs was increased from \$26 to \$50. 30 Pa. B. 5952. The biennial renewal fees for LDNs was established May 20, 2006. 36 Pa. B. 2396.

In the fall of 2008, BFO advised the Board that it would be required to raise its biennial renewal fees to meet current and projected expenses. On July 27, 2009, BFO again met with the Board and provided an updated recommendation regarding whether a fee increase would be required for the Board to meet its operating expenses, and what fee would be recommended.

BFO reported that the Board would face an inability to meet its obligations if fees were not increased. BFO advised the Board that it would face a deficit of over \$1 million by FY 11-12 if fees are not raised, will face a deficit of over \$3.8 million in FY 12-13, a deficit of over \$6.4 million in FY 13-14, a deficit of over \$10.3 million in FY 14-15, a deficit of over \$14 million in FY 15-16, a deficit of over \$19 million in FY 16-17 and a deficit of over \$22.6 million in FY 17-18. BFO recommended, and the Board adopted, an approximately 45% increase. Pursuant to the increase, the new RN biennial fee will be \$65, the new LPN biennial fee will be \$60, the New CRNP biennial fee will be \$75, and the new LDN biennial fee will be \$65.

Description of Amendments

The Board proposes an approximately 45% increase in the biennial renewal fees for LPNs, RNs, CRNPs, and LDNs. The Board proposes no increase in the biennial renewal fee for CRNP Prescriptive Authority Approval because CRNPs will already be faced with an increase to both the RN and CRNP biennial renewal fees.

Fiscal Impact and Paperwork Requirements.

The amendments will have a fiscal impact on nurses and licensed dietitian-nutritionists in the Commonwealth in that the amendments increase the biennial licensure renewal fees for these licensees. The amendments will not otherwise have any fiscal impact nor impose additional paperwork on the private sector, the general public and the Commonwealth and its political subdivisions.

Sunset Date

The Board continuously monitors 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 December 7, 2009, 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 (SCP/PLC) and the House Professional Licensure Committee (HPLC). 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 from the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that 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 and 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, Pennsylvania 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference (16A-5136) Biennial Renewal Fees when submitting comments.

Ann L. O'Sullivan, Ph.D., FAAN, CRNP
Chairperson

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 for services provided to licensees:

Examination and licensure.....	\$35
Reexamination.....	\$30
Licensure by endorsement.....	\$100
Temporary permit.....	\$35
Extension of temporary permit.....	\$60
[Application for approval of new nursing program.....]	\$935]
Fee for review and challenge of RN exams.....	\$170
Application fee for out-of-State graduates	\$100
[Biennial renewal of license.. ..]	\$45]
Verification of licensure	\$15
Reactivation of license (after 5 years or longer).....	\$50
Restoration after suspension or revocation.....	\$50
Certification of scores.....	\$25
Certification of license history	\$40

[Request under § 21.134(b) by a provider of a continuing education activity not listed in § 21.134(a) or an individual seeking credit for a continuing education activity not pre-approved by the Board for approval of each hour of continuing education for which credit is requested..\$75]

(b) [In addition to the examination and licensure fee of \$35 prescribed in subsection (a), which is payable directly to the Board, a candidate for the registered nurse licensing examination shall also pay a fee of \$40 to the National Council of the State Board of Nursing to cover costs associated with the preparation and administration of the registered nurse licensing examination. Effective April 1994, or upon implementation of the computer adaptive examination, the fee paid directly to the National Council of the State Boards of Nursing or its designated agent is \$88.]

The following fees are charged by the Board to support its operations:

Biennial renewal of license.....\$65

(c) The following fees are charged by the Board for services provided to nursing education programs:

Application for approval of new nursing program.. \$935

(d) The following fees related to continuing education are charged by the Board:
Request, under § 21.134(b) by a provider of a continuing education activity not listed in § 21.134(a) or an individual seeking credit for a continuing education activity not pre-approved

by the Board, for approval of each hour of continuing education for which credit is requested.....\$75

(e) In addition to the examination and licensure fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the registered nurse licensing examination shall also pay a fee to the National Council of the State Board of Nursing (www.ncsbn.org) to cover costs associated with the preparation and administration of the registered nurse licensing examination.

* * * * *

Subchapter B. PRACTICAL NURSES

* * * * *

GENERAL PROVISIONS

§ 21.147. Fees.

(a) The following fees are charged by the Board for services to licensees:

Examination and licensure.....	\$35
Reexamination.....	\$30
Licensure by endorsement.....	\$100
Temporary permit.....	\$35
Extension of temporary permit.....	\$60
[Application of approval of new nursing program	\$935]
Fee for review and challenge of PN exams	\$170

Application fee for out-of-State graduates	\$100
[Biennial renewal of license	\$40]
Verification of licensure	\$15
Reactivation of license (after 5 years or longer).....	\$50
Restoration after suspension or revocation.....	\$50
Certification of scores.....	\$25
Certification of license history	\$40

(b) [In addition to the examination and licensure fee of \$35 prescribed in subsection (a), which is payable directly to the Board, a candidate for the practical nurse licensing examination shall also pay a fee of \$40 to the National Council of the State Boards of Nursing to cover costs associated with the preparation and administration of the practical nurse licensing examination. Effective April 1994, or upon implementation of the computer adaptive examination, the fee paid directly to the National Council of the State Boards of Nursing or its designated agent is \$88.]

The following fees are charged by the Board to support its operations:

<u>Biennial renewal of license.....</u>	<u>\$60</u>
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(c) The following fees are charged by the Board for services to nursing education programs:

<u>Application for approval of new nursing program.....</u>	<u>\$935</u>
---	--------------

(d) In addition to the examination and licensure fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the practical nurse licensing examination shall also pay a fee to the National Council of the State Boards of Nursing (www.ncsbn.org) to cover costs associated with the preparation and administration of the practical nurse licensing examination.

* * * * *

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

GENERAL PROVISIONS

§ 21.253. Fees.

(a) The following fees are charged by the Board for services to licensees:

<u>CRNP Certification</u>	\$100
[Biennial renewal of certification	\$50]
Verification of certification	\$15
Application for prescriptive authority	\$50
Each additional collaborative agreement for prescriptive authority.....	\$30
[Biennial renewal of prescriptive authority	\$25
Application for approval of new nursing program	\$735
Application for approval of CRNP continuing education course.....	\$100]

(b) The following fees are charged by the Board to support its operations:

<u>Biennial renewal of CRNP certification</u>	\$75
---	------

Biennial renewal of prescriptive authority approval\$25

(c) The following fees for approval and review of CRNP education programs are charged by the Board:

Application for approval of new nursing program\$735

(d) The following fees related to continuing education are charged by the Board:

Application for approval of CRNP continuing education course.....\$100

* * * * *

Subchapter G.

DIETITIAN-NUTRITIONISTS

GENERAL PROVISIONS

* * * * *

§ 21.705. Fees.

(a) The following fees are charged by the Board for services to licensees:

Application for licensure\$45

[Renewal fee\$45]

Reactivation of inactive or lapsed license\$50

License verification fee\$15

License certification fee.....\$25

Restoration after suspension or revocation.....\$50

(b) The following fees are charged by the Board to support its operations:

Biennial renewal of license.....\$65

(c) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the Registration Examination for Registered Dietitians will also pay an additional examination fee. A candidate may contact the Commission on Dietetic Registration, 216 West Jackson Blvd., Chicago, IL 60606-6995, www.dcrnet.org for more information regarding the examination and examination fee.

[(c)](d) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the Certification Board for Nutrition Specialists examination for Certified Nutrition Specialists will also pay an additional examination fee. A candidate may contact the Certification Board for Nutrition Specialists, 300 S. Duncan Avenue, Suite 225, Clearwater, FL 33755, www.cert-nutrition.org for more information regarding the examination and examination fee.



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

December 7, 2009

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

Re: Proposed Rulemaking
State Board of Nursing
16A-5136: BIENNIAL RENEWAL FEES

Dear Chairman Coccodrilli:

Enclosed is a copy of a proposed rulemaking package of the State Board of Nursing pertaining to Biennial Renewal Fees.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ann L. O'Sullivan".

Ann L. O'Sullivan, PhD, FAAN, CRNP, Chairperson
State Board of Nursing

ALO/TL:rs

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Steven V. Turner, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel & Senior Counsel in Charge
Department of State
Teresa Lazo, Counsel
State Board of Nursing
State Board of Nursing

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

I.D. NUMBER: 16A-5136

SUBJECT: BIENNIAL RENEWAL FEES

AGENCY: DEPARTMENT OF STATE
STATE BOARD OF NURSING

TYPE OF REGULATION

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

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REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
12/7/09	<i>J. Muller</i>	MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
12/7/09	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Robt. M. Tomlinson</u>
12/7/09	<i>Kathy Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
12/7/09	<i>M. Lathrop</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)