

Comments of the Independent Regulatory Review Commission



State Board of Private Licensed Schools Regulation #6-334 (IRRC #3145)

Fees

May 25, 2016

We submit for your consideration the following comments on the proposed rulemaking published in the March 26, 2016 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Private Licensed Schools (Board) to respond to all comments received from us or any other source.

1. Section 73.151. Fees. – Clarity; Reasonableness; and Economic or fiscal impact.

Initial Licensing and Change of Ownership Fees

The Board proposes in subsection (a) paragraph (1) to increase the original school license or registration fee from \$1,500 to \$7,500. In response to question #19 of regulatory analysis form (RAF), which asks for a specific estimate of the costs and/or savings to the regulated community associated with compliance, the Board states:

“Fees for initial licensure were increased from \$1,500 to \$7,500 because schools that enter the sector casually have been identified as a risk factor because sudden closure is often precipitated by financial distress. The increased fee also correlates more closely to the cost of processing new school applications, which require extensive review by professional staff.”

The Board is also proposing to increase the fee for change of ownership from \$1,200 to \$5,000 to “parallel the cost of initial license application.” These proposed fees represent a 400 percent and 317 percent increase over the current charges, respectively.

Based on the Board’s response to RAF question #12, the proposed increase would make Pennsylvania’s fee for an original school license significantly higher than most states’ fees for the same type of application. We understand the Board’s desire to deter abusive operators from establishing schools in the Commonwealth, but question whether the proposed increase in the initial licensing fee may dissuade smaller, non-corporate backed schools from applying for licensure. The Board should explain how it determined that \$7,500 and \$5,000 are the appropriate amount of fees to charge.

In RAF question #12, the Board remarks that “Pennsylvania does not compete with other states in the regulation of private career schools.” The Board should include an explanation as to why it believes this to be the case.

Implementation of the Biennial Fee for License and Registration Renewal

Since the duration and renewal of a license or registration is based on the original school license effective date, the Board should explain in the Preamble to the final rulemaking how Subsection (a) Paragraph (3) will be implemented.

New Director Seminar fee

Under Subsection (b)(6) the Board is proposing to charge a \$200 fee per school for participation in a “New Director Seminar.” In response to RAF question #19, the Board indicates that the “New Director Seminar” fee will be charged on an attendee basis. A similar existing fee for “New School Orientation Seminar” is charged on a participant basis. The Board’s varying basis for how seminar fees are charged could cause some confusion among the regulated community. The Board should either revise the language for the new fee to be consistent with other similar fees or explain its rationale for charging the “New Director Seminar” fee on a school participation basis.

Also, the Board states that the new fee is to offset the costs of mandatory training but it does not provide the statutory authority. The Board should include this information in its response to RAF question #19 when it submits the final version of this regulation.

2. General.

Effective date

The Preamble states that the proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*. In response to RAF Question #29, the Board lists the expected effective date and the date by which compliance with the final-form regulation will be required as July 1, 2016. The Board should revise its response to RAF Question #29 since it is unlikely that the final rulemaking will be published by that date.

Time frame

The Board last increased its fees in 2002. The Board explains that while there has been no change to the actual number of staff since 2002, one position that was covered by general funds was transferred to the Board’s account in 2010. In response to RAF question #19, the Board states “Much of the fee increase is required to close the deficit that has accumulated since 2010.” The Board should explain in detail the circumstances which led to the delay in requesting incremental fee increases and any alternatives it considered.

Summary of proposed amendments

A description of the proposed “New Director Seminar” fee was not provided in the Preamble. The Board should include a description of the new fee in the Preamble of the final-form rulemaking.