

Comments of the Independent Regulatory Review Commission



State Board of Dentistry Regulation #16A-4634 (IRRC #3277)

Fees

January 13, 2021

We submit for your consideration the following comments on the proposed rulemaking published in the November 14, 2020 *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 Dentistry (Board) to respond to all comments received from us or any other source.

1. Reasonableness; Economic or Fiscal Impact; and Implementation procedures and timetables.

This rulemaking proposes graduated increases in application fees and biennial renewal fees for all license and permit types issued by the Board. Under Section 4(b) of The Dental Law (63 P.S. 123(b)) (Act), the Board is required to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the Act provides that the Board shall increase fees if the revenue generated is not sufficient to meet expenditures over a two-year period. The revenue generated must meet or exceed projected expenses. The proposed fee increases are projected to produce sufficient revenue to meet expenditures over a two-year period through the 2025-2026 fiscal year.

The Pennsylvania Dental Association (PDA) and the Pennsylvania Academy of General Dentistry (PAGD) submitted comments opposing the amount and timing of the fee increases. PAGD and others describe the proposed fee increases as excessive and arbitrary. They request that a complete financial report be provided by the Board to support the need for the fee increases. Commentators believe that the 18 percent increase in biennial renewal fees is not reasonable at this time. They point out that the dental community continues to deal with significant financial hardships due to the Covid-19 pandemic.

Commentators also question whether the effective date of the proposed rulemaking gives licensees sufficient advance notice about a fee increase. Commentators requested that the Board delay the implementation of the biennial renewal fee increases until the 2023 renewal cycle instead of the 2021 renewal period. Some have suggested that the implementation of the fee increases should occur after the regulated community has recovered from the economic harm of the pandemic and it resumes practicing at pre-pandemic levels.

We agree with commentators' concerns that a fee increase at this time is not reasonable. The second wave of the pandemic has created unprecedented financial and operational challenges for the dental community. Under the circumstances, additional time for the regulated community to review and comment on the proposal is warranted. Therefore, we ask the Board to withdraw the rulemaking and submit it at a later date.

If the Board does not withdraw this proposal as suggested it should explain how biennial fee increases will be implemented if this rulemaking is not finalized before the start of the biennial renewal cycle commencing on April 1, 2021. We ask the Board to provide additional information regarding its financial needs, including an explanation for the dramatic rise in expenses of major cost centers in the preceding six years. Finally, the Board should address the adverse economic impacts that commentators are asserting will result from implementing this rulemaking, as well as the reasonableness of imposing significant fee increases at this time.

2. Miscellaneous. Clarity.

- We asked the Board to revise the Preamble and the Regulatory Analysis Form to include statutory authority citations for all fees contained in § 33.3.