

**INDEPENDENT REGULATORY REVIEW COMMISSION  
PUBLIC MEETING MINUTES**

10:00 A.M.

Thursday, July 16, 2020  
14<sup>th</sup> Floor Conference Room  
333 Market Street

**I. CALL OF THE MEETING**

The July 16, 2020 public meeting of the Independent Regulatory Review Commission (Commission) was called to order by Chairman Bedwick at 10:07 a.m. in the 14<sup>th</sup> Floor Conference Room, 333 Market Street, Harrisburg, PA.

Commissioners Present:      George D. Bedwick, Chairman  
   John J. Soroko, Esq.  
   Murray Ufberg, Esq.

Telephone:                      John F. Mizner, Esq., Vice Chairman  
   Dennis A. Watson, Esq.

**II. APPROVAL OF THE JUNE 18, 2020 PUBLIC MEETING MINUTES**

Chairman Bedwick asked for a motion for approval of the June 18, 2020 public meeting minutes, as submitted. Commissioner Ufberg made the motion and Chairman Bedwick seconded, and the motion passed 5-0.

**III. NEW BUSINESS**

**A.      ACTION ITEMS**

**1. No. 3254 State Board of Osteopathic Medicine #16A-5334: Fees**

Scott Schalles, Regulatory Analyst, explained the regulation proposes increases in application fees and biennial renewal fees for osteopathic physicians and other medical practitioners regulated by the State Board of Osteopathic Medicine (Board). He stated that the other practitioners include physician assistants, acupuncturists, respiratory therapists, athletic trainers, perfusionists, and genetic counselors. Mr. Schalles further explained the Board is proposing graduated fee increases that coincide with their two-year financial cycle. According to Mr. Schalles, under the Osteopathic Medical Practice Act (Act) the Board is required to support its operations from revenue generated from its fees, fines and civil penalties. The act also provides the Board shall increase fees if the revenue generated is not sufficient to meet expenditures over a two-year period. He said the revenue generated must exceed or meet the projected expenses. He reported both legislative committees deemed the regulation approved.

The Commissioners reviewed an embargoed letter from the Pennsylvania Osteopathic Medical Association (Association). In the letter the Association stated it “will not object to increasing the fees for the sole reason we believe the State Board of Osteopathic Medicine should remain intact.”

Ken Suter, Board Counsel, Jacqueline Wolfgang, Senior Regulatory Counsel, Julie A. Snader, Deputy Director, Bureau of Finance and Operations, and Kimberly S. Adams, Fiscal Chief, Bureau of Finance and Operations, Department of State, were on the telephone to answer any questions.

Mr. Suter said the regulation amends the Board’s schedule of fees and provides for a graduated fee increase schedule. He added that this includes both application and biennial fees for all the licensees in the jurisdiction of the Board. Mr. Suter explained the Board has a statutory obligation to increase their fees through regulation when the revenue generated over a two-year period is not sufficient to meet the expenditures of the Board. He reported the Board has proposed this fee increase because the Board’s expenditures are outpacing its revenue. Mr. Suter told the Commissioners, “While the Board acknowledges many licensees have been impacted by COVID-19 and it is a difficult time for everyone, this rulemaking is a package the Board has been working on for quite some time.” According to Mr. Suter, the Board began working on this package in late 2016. He explained that in consideration of the impact of COVID-19; comments received from licensees regarding the amount of increase for osteopathic physician licensees; and comments received from the Commission, the House Professional Licensure Committee, and others regarding the fiscal impact of COVID-19, the Board asked the Bureau of Finance and Operations to review the Board’s current fiscal status and provide updated financial report information.

Chairman Bedwick wanted to know if the renewals of each of the licensing categories have the same renewal date. Mr. Suter responded, “No.” He explained that about half of the licensees need to renew by November 1 of this year and the remaining licensees need to renew by January 1, 2021. Chairman Bedwick then asked if the Board has the authority, as part of a resolution of a disciplinary action, to assess costs on the individual being disciplined. Mr. Suter explained the Board does have the authority but it is limited. He said the cost of investigation can be imposed upon the individual being disciplined. Mr. Suter further explained that nothing after the formal charges have been filed can be a charge held against the licensee. He stated that the cost of the hearing and the cost of the prosecutor after formal charges have been filed cannot be included, so the full cost of a disciplinary action cannot be captured. Mr. Suter pointed out many cases are resolved through a plea agreement which comes before the Board, and in some cases it is something that is negotiated between the prosecutor and the licensee. He noted it does not happen in every single case but the Board does have the authority to do that and they try to recapture the costs to the extent they are permitted.

Commissioner Ufberg wanted to know about the self-reporting requirement. He asked if that takes place at the time charges are instituted by law enforcement or if it is the licensee’s obligation to report something they know is wrong, whether it has been prosecuted or not. Mr. Suter explained Act 6 of 2018 (Act 6) mandated that individuals report to the Department of State when charges are filed. Ms. Wolfgang pointed out the individual does not report when

charges are filed but when there is a finding of guilt or admission of guilt. Chairman Ufberg asked if the reporting occurs upon the disposition of charges or the filing of charges. Mr. Suter explained that an investigation would normally not be necessary. He added the discipline by the Board would be different than the discipline imposed in a criminal proceeding.

Chairman Bedwick asked if the cost increases are a direct result of Act 6 and the bulk of the increase was the Board finding individuals who had criminal disposition but did not self-report it. Mr. Suter explained that was one of the things they identified as a high cost driver but it is not the only area where costs have increased.

Chairman Bedwick made a motion for approval. Commissioner Ufberg seconded, and the motion passed 5-0.

#### **IV. OTHER BUSINESS**

##### **Approval of Vouchers**

Commissioner Ufberg made motions to approve vouchers and expenses for the period February 21, 2020 through June 18, 2020. Vice Chairman Mizner seconded, and the motions passed 5-0.

#### **V. DATE AND PLACE OF SUBSEQUENT MEETING**

Chairman Bedwick announced the next public meeting is scheduled for Thursday, August 20, 2020, at 10:00 a.m. in the 14<sup>th</sup> Floor Conference Room, 333 Market Street, Harrisburg.

#### **VI. EXECUTIVE SESSION ANNOUNCEMENTS**

Chairman Bedwick announced that no executive session would be held.

#### **VII. ADJOURNMENT**

Chairman Bedwick adjourned the meeting at 10:33 a.m.