

# Regulatory Analysis Form

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REVIEW COMMISSION

(1) Agency  
Department of State  
Bureau of Professional and Occupational Affairs  
State Architects Licensure Board

(2) I.D. Number (Governor's Office Use)  
16A-416

IRRC Number: 2261

(3) Short Title  
Annual Renewal Fees for Registered Architecture Firms

(4) PA Code Cite  
  
49 Pa. Code, §§ 9.3, 9.41 – 9.49a  
9.51 - 9.52, 9.111 – 9.118 and 9.131  
– 9.132

(5) Agency Contacts & Telephone Numbers  
Primary Contact: Roberta L. Silver, Assistant Counsel  
State Architects Licensure Board (717) 783-7200  
Secondary Contact: Joyce McKeever, Deputy Chief  
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)  
  
☐ Proposed Rulemaking  
☒ Final Order Adopting Regulation  
☐ Policy Statement

(7) Is a 120-Day Emergency Certification  
Attached?  
  
☒ No  
☐ Yes: By the Attorney General  
☐ Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The State Architects Licensure Board (Board) amends 49 Pa. Code § 9.3 (relating to fees), by implementing an annual renewal fee for registered architecture firms and eliminating reference to cost and procedures for taking the Architect Registration Examination (ARE) which is given by the National Council of Architectural Registration Boards (NCARB), as set forth in Annex A. The Board further amends its regulations at 49 Pa. Code §§ 9.41 – 9.49a, §§ 9.51-9.52 and §§ 9.111 – 9.132 by deleting references to the procedures for taking the ARE and by rearranging license eligibility and examination requirements in a more cohesive and orderly fashion, as set forth in Annex A.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The amendments are adopted under Sections 8, 11 and 13 of the Architects Licensure Law, Act of December 14, 1982, P.L. 1227, as amended, 63 P.S. §§ 34.11, 34.13.

### **Regulatory Analysis Form**

**(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.**

Yes. The Board is required by statute to adopt regulations setting fees as specified in Sections 11 and 13 of the Architects Licensure Law, Act of December 14, 1982, P.L. 1227, as amended, 63 P.S. §§ 34.11, 34.13.

**(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?**

General operating and enforcement expenses of the Board are apportioned to the general licensee population through the collection of license renewal fees. No renewal fee has been established for architecture firms. The Board seeks to establish a renewal fee for renewing the registration of architecture firms, thereby causing licensed firms to contribute to the general operating and enforcement expenses of the Board.

**(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.**

Nonregulation would not risk public health, safety, environment or general welfare. However, nonregulation would adversely impact the fiscal integrity of the Board in that it would be precluded from recouping a portion of its operating costs from registered architecture firms.

**(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)**

The licensing population and the general public will benefit in that the Board will have the fiscal integrity to carry on its mandate of issuing licenses, registering architect firms, regulating the profession, and protecting consumers.

### Regulatory Analysis Form

**(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)**

The Board has not identified any group of individuals or entities who will be adversely affected by the regulation.

**(15) 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 registered architecture firms will be required to comply with this regulation. The Board anticipates that approximately 2,000 firms will renew their registration biennially.

**(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.**

Copies were provided to those interested parties who requested an opportunity to provide input. On July 27, 2001, the Board solicited input from the American Institute of Architects of Pennsylvania and NCARB. The Board did not receive comments or suggestions.

On April 16, 2002, the proposed regulation was published in the Pennsylvania Bulletin (32 Pa.B. 1731), which was followed by a 30-day public comment period. The Board received no public comments.

**(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.**

The Board estimates that there are presently 2,000 registered architecture firms that would be affected by this proposed regulation. The total aggregate cost for the regulated community is approximately \$100,000 annually or \$200,000 biennially.

### **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.**

**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.**

**The Board will not incur an increase in administrative costs by implementing the regulation. Indeed, the amendments will permit the Board to recoup the costs of sending out renewal notices, collecting fees, and performing other administrative tasks associated with the registration of architecture firms.**

### 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.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>						
Regulated Community	100,000	100,000	100,000	100,000	100,000	100,000
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

The cost estimates are based upon the following number of registered firms that will avail themselves of the specified services over a fiscal year (one-half biennium) period multiplied by the savings or additional costs to the applicant for services:

Annual renewal      \$50 x 2,000 = \$100,000

### Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY
See attached fee report form.	247,480.26	236,308.10	228,921.41 *	247,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The amendments to the existing regulations will assure that the Board will be able to recover the costs of its biennial expenditures, including costs associated with the registration of firms.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered because the Board's enabling statute requires the Board to promulgate regulations to establish fees that generate revenue sufficient to match the Board's expenditures.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered because the Board's enabling statute requires the Board to promulgate regulations to establish fees that generate revenue sufficient to match the Board's expenditures.

## **Regulatory Analysis Form**

**(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 regulation.**

**There are no federal licensure standards.**

**(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?**

**The following neighboring states collect fees for registered architecture firms:**

<b>Maryland</b>	<b>\$ 30/annual</b>
<b>New Jersey</b>	<b>\$500/biennial</b>
<b>New York</b>	<b>\$ 35/annual</b>
<b>Ohio</b>	<b>\$ 25/annual</b>

**The regulation will not put Pennsylvania at a competitive disadvantage with other states.**

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

**This regulation will have no effect on other regulations of the Board or other state agencies.**

**(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.**

**The Board reviews regulatory proposals at regularly scheduled bi-monthly public meetings. However, in light of the statutory mandate, the Board has not scheduled public hearings or informational meetings regarding this regulation.**

### **Regulatory Analysis Form**

**(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.**

**Additional paperwork and record keeping will be necessary because of the implementation of the new annual fee, collected biennially.**

**(29) 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 perceived no special needs of any subject of its applicants or licensees for whom special accommodations should be made.**

**(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?**

**The regulation will be effective upon publication as final rulemaking in the *Pennsylvania Bulletin*. The annual renewal fee for architecture firms will be implemented in June 30, 2003, and will coincide with the biennial renewal date for licensed architects. Renewal notices will be sent out to all registered firms at the beginning of April, 2003.**

**(31) Provide the schedule for continual review of the regulation.**

**The Board reviews its revenues and costs of its programs on a fiscal year and biennial basis.**



## **FEE REPORT FORM**

**Agency:** State - BPOA

**Date:** 7/2/2001

**Contact:** David Williams

**Phone No.** 783-7194

### **Fee Title, Rate and Estimated Collections:**

Architect Firm Practice Registration Annual Renewal Fee: \$50.00

Estimated Biennial Revenue: \$200,000.00 (2,000 firms x \$100)

(The \$50.00 annual renewal fee will be collected on a biennial basis)

### **Fee Description:**

The fee will be charged to every applicant for registration renewal.

### **Fee Objective:**

The fee should defray a portion of the operational costs of the State Board of Architects.

### **Analysis, Comment, and Recommendation:**

It is recommended that an annual renewal fee of \$50.00 be established to renew firm practice registrations, thereby causing registered architecture firms to contribute to the operational costs of the Board.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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#2261

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Copy below is hereby certified to be a true and correct  
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BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

State Architects Licensure Board  
(AGENCY)

BY: \_\_\_\_\_

DOCUMENT/FISCAL NOTE NO. 16A-416

DATE OF ADOPTION: \_\_\_\_\_

BY: Ann Shepard Houston  
Ann Shepard Houston, President

10/16/02  
DATE OF APPROVAL

\_\_\_\_\_  
DATE OF APPROVAL

(Deputy General Counsel  
~~(Chief Counsel)~~  
~~Independent Agency~~  
~~(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.

FINAL RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE ARCHITECTS LICENSURE BOARD  
49 PA. CODE, CHAPTER 9

ANNUAL RENEWAL FEE FOR  
REGISTERED ARCHITECTURE FIRMS  
AND EXAMINATION FEES

The State Architects Licensure Board (Board) hereby amends §§ 9.3, 9.41, 9.46 and 9.49a; adds §§ 9.41a, 9.51 and 9.52; and deletes §§ 9.111, 9.113, 9.114, 9.116-9.118, 9.131 and 9.132 to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The amendments are authorized under Sections 8, 11 and 13 of the Architects Licensure Law (Act) (63 P.S. § 34.8, § 34.11 and § 34.13).

C. Background and Purpose

The Board is amending its regulations at 49 Pa. Code §9.3 (relating to fees), by implementing an annual renewal fee for registered architecture firms and eliminating reference to the cost of taking the Architect Registration Examination (ARE) which is given by the National Council of Architectural Registration Boards (NCARB). The Board is further amending its regulations at 49 Pa. Code §§ 9.41-9.49a, §§ 9.51-9.52 and §§ 9.111-9.132 by deleting references to the procedures for taking the ARE and by rearranging license eligibility and examination requirements in a more cohesive and orderly fashion.

Deletion of Reference to the ARE Fee

The Board is eliminating reference to the ARE examination fee over which the Board has no control or involvement. The ARE is a recognized uniform examination used throughout the United States. The General Assembly has indicated its preference for the recognition of national uniform examinations and grading services in accordance with Section 812.1 of the Administrative Code of 1929 (71 P.S. § 279.3a). The fee for the examination is established by the national examiner and communicated directly to the applicants. Applicants for the examination pay the examination fee directly to the national examiner. Thus, it is unnecessary and impractical for the Board to continue to publish the national examiner's examination fee in the Board's regulations.

In lieu of publishing the cost of the examination, the Board adopts § 9.41a, which promulgates the adoption of national board examinations, including the fee established by NCARB.

#### Annual Renewal Fee for Registered Architecture Firms

General operating and enforcement expenses of the Board are apportioned to the general licensee population through the collection of license renewal fees. Section 11(a) of the Act, 63 P.S. § 34.11(a), requires the Board to increase fees by regulations.

Section 13(j) of the Act, 63 P.S. § 34.13(j), states that the Board shall, by promulgation of rules and regulations, require that registered architecture firms file with the Board information concerning their officers, directors, partners, professional association board of governors, beneficial owners, members or managers and such other aspects of their organization as the Board deems appropriate. This section also authorizes the Board to charge each registered architecture firm an annual filing fee in an amount determined by the Board.

No renewal fee has been established for registered architecture firms. Therefore, the Board is establishing a renewal fee for the registration of architectural firms, thereby causing licensed firms to contribute to the general operating and enforcement expenses of the Board.

The annual fee of \$50 will be collected by the Board biennially. This means that, every two years, the Board will collect \$100 from each registered architecture firm.

#### Examination and Grading Procedures

Section 8(c) of the Act, 63 P.S. § 34.8(c), authorizes the Board to adopt the examination and recommended grading procedures adopted by NCARB. Because the adoption of NCARB's examination and grading procedures would eliminate the Board's role in the process, the Board is deleting regulations outlining its role in the administration of the examination.

#### D. Comment and Regulatory Review of Proposed Rulemaking

Publication of proposed rulemaking at 32 Pa.B.1731 (April 6, 2002) was followed by a 30-day public comment period during which the Board received no public comments. Following the close of the public comment period, the Board did

not receive comments from the House Professional Licensure Committee (HPLC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) or the Independent Regulatory Review Commission (IRRC).

#### E. Description of Amendments

The following table outlines the affected fee and change:

<u>Application</u>	<u>Current Fee</u>	<u>New Fee</u>
Annual renewal fee for registered architecture firms	\$0.00	\$ 50.00

#### Licensure by Examination

Section 9.41 informs candidates that the subject matter of the ARE examination is available from NCARB.

Section 9.41a adopts the national board examination, including the fee established by NCARB.

Section 9.49a (a) informs candidates that information concerning the Intern Development Program (IDP) of NCARB is available directly from NCARB.

Section 9.49a (b) directs candidates to have NCARB transmit a certificate of completion of IDP to the Board.

#### Grading and Review

Sections 9.51 and 9.52 are identical to §§ 9.131 and 9.132. Sections 9.131 and 9.132 now become §§ 9.51 and 9.52, so that they will appear alongside the related regulations referring to licensure by examination and examination. Sections 9.131 and 9.132 are then deleted.

#### Examination

Section 8(c) of the Act, 63 P.S. § 34.8(c), authorizes the Board to adopt the examination and recommended grading procedures adopted by NCARB. As such,

it is unnecessary to continue to publish §§ 9.111 – 9.118, relating to dates of examination, location of examination, due notice, admittance and proctors. Therefore, the Board is deleting those sections of the regulations.

#### F. Compliance with Executive Order 1996-1

The Board reviewed this final-form rulemaking and considered its purpose and likely impact on the public and the regulated population under the directives of Executive Order 1996-1. With regard to the annual renewal fee for registered architecture firms, the Board considers this regulation the least restrictive alternative to cover the costs associated with services provided to registered architecture firms.

#### G. Fiscal Impact and Paperwork Requirements

The amendment will implement an annual renewal fee for registered architecture firms in the Commonwealth, but, otherwise, should have no fiscal impact on the private sector, the general public or political subdivisions.

The amendment requires the Board to alter some of its forms to reflect the new fee; however, the amendments should create no additional paperwork for the private sector.

#### H. Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

#### I. Regulatory Review

Under Section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), the Board submitted copies of the notice of proposed rulemaking, published at 32 Pa.B. 1731 (April 6, 2002) to IRRC, SCP/PLC and HPLC for review and comment.

The Board did not receive any comments from IRRC, SCP/PLC, HPLC or the public.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), this final-form regulation was deemed approved by the HPLC and the SCP/PLC on

\_\_\_\_\_. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on \_\_\_\_\_ and approved the final-form regulation.

#### J. Contact Person

Further information may be obtained by contacting Dorna Thorpe, Board Administrator, State Architects Licensure Board, 116 Pine Street, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 (dthorpe@state.pa.us).

#### K. Findings

The State Architects Licensure Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law.
- (3) This amendment does not enlarge the purpose of proposed rulemaking published at 32 Pa.B.1731.
- (4) This amendment is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

#### L. Order

The State Architects Licensure Board, acting under its authorizing statutes, orders that:

- (1) The regulations of the Board at 49 Pa. Code §§ 9.3, 9.41, 9.46 and 9.49a are amended, §§ 9.41a, 9.51 and 9.52 are added and §§ 9.111, 9.113, 9.114, 9.116-9.118, 9.131 and 9.132 are deleted, as set forth in Annex A.

- (2) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of the Attorney General as required by law.
- (3) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (4) This order shall take effect on publication in the *Pennsylvania Bulletin*.



**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
CHAPTER 9. STATE ARCHITECTS LICENSURE BOARD**

**GENERAL PROVISIONS**

**§ 9.3. Fees.**

[(a)] The cost of the ARE is \$980. The fee for each portion is:

	Predesign.....	\$ 92
	Site Planning.....	\$129
	Building Planning.....	\$155
	Building Technology.....	\$145
	General Structures.....	\$108
	Lateral Forces.....	\$ 79
	Mechanical and Electrical.....	\$ 83
	Material and Methods .....	\$ 90
	Construction Documents and Services.....	\$ 99
(b)]	Initial License.....	\$ 40
[(c)]	Reciprocal license with NCARB Certification.....	\$ 30
	Reciprocal license without NCARB Certification.....	\$ 50
[(d)]	Certification of licensure, registration or scores.....	\$ 25
[(e)]	Biennial renewal of license.....	\$100
[(f)]	Reactivation of lapsed or expired license.....	\$ 30
[(g)]	Firm practice registration or modification <u>requiring new corporate structure</u> .....	\$ 50
[(h)]	License or registration verification.....	\$ 15
	<u>Annual renewal fee for registered architecture firms.....</u>	<u>\$ 50</u>

(\$100 fee shall be assessed biennially)

\* \* \*

## LICENSURE BY EXAMINATION

### § 9.41. General Requirements.

Licensure may be granted to an applicant who has successfully passed the ARE examination. The subject matter is [described in detail in the NCARB's Circular of Information No. 2 which is] available from the [Board or from the National Council of Architectural Registration Boards, 1735 New York Avenue, N.W., Suite 700, Washington, D.C. 20006] NCARB.

#### § 9.41a. Adoption of National Board Examinations.

- (a) The Board has adopted the ARE given by the NCARB. Candidates for examination shall obtain applications directly from the NCARB and pay the fee for the examination directly to the NCARB.
- (b) Candidates shall comply with examination procedures and conduct standards as established by the NCARB.

\*\*\*

### § 9.46. Requirements for examination eligibility.

- (a) A candidate for the examination shall have:

\*\*\*

[3] (b) An architectural degree candidate applying for first time licensure is required to pass the entire professional licensure examination of the Board within 5 years of the date of [notice by the Board of] eligibility to take the examination. The Board may waive this requirement upon proof of medical hardship or other extraordinary circumstances.

\*\*\*

#### § 9.49a. Diversified training requirements.

- (a) The Board has adopted NCARB Training Requirements for IDP [as set forth in Appendix B to the 1985-1986 NCARB Circular of Information No. 1. The 1985-1986 NCARB Circular of Information No. 1]. This information is available from [National Council of Architectural Registration Boards, 1735 New York Avenue, N.W., Suite 700, Washington, D.C. 20006.] the NCARB.

(b) The candidate shall keep records of required diversified training experience in accordance with NCARB IDP requirement. The candidate is responsible for having NCARB transmit a certificate of completion of IDP [as part of the candidate's application. An application which does not contain a certificate will not be reviewed] to the Board.

\*\*\*

## **GRADING AND REVIEW**

### **§ 9.51. Examination Grading.**

The ARE shall be graded using procedures developed by NCARB in consultation with a professional testing organization. Examination results shall be recorded by the Board in the record of the candidate and shall be maintained in accordance with § 9.27 (relating to inactive records).

### **§ 9.52. Grading Compilation.**

To qualify for licensure, a candidate shall receive a passing grade on each part or division of the examination. Grades received in individual parts or divisions will not be averaged. A candidate will have opportunities, subject to § 9.46(3) (relating to requirements for examination eligibility), to retake those portions of the examination which were failed.

\*\*\*

## **EXAMINATION**

### **§ 9.111. [Dates of examination] (Reserved).**

[The ARE shall be given on dates and in the form as made available to the Board by the NCARB.]

\*\*\*

**§ 9.113. [Location of examination site] (Reserved).**

[The ARE shall be given at locations determined by the Board in conjunction with the NCARB.]

**§ 9.114. [Due notice] (Reserved).**

[A candidate eligible to take the examination will be given due notice of the date, time and place of examinations and will be given specific preexamination instructions. Candidates may schedule and reschedule examinations in accordance with NCARB Administration Procedures. The NCARB will notify candidates of scheduling deadlines and costs of rescheduling at the time the candidate first is scheduled to take the examination.]

\*\*\*

**§ 9.116. [Admittance] (Reserved).**

[A candidate shall present his admission letter and form of positive identification for admittance to the examination. Candidates shall comply with examination procedures and conduct standards as established by NCARB.]

**§ 9.117. [Proctors] (Reserved).**

[The professional testing organization will arrange for proctors at an examination whose duty it is to administer the conduct of the examination. Candidates will be given specific instructions as to conduct which will be deemed to constitute suspected cheating. A candidate found to have engaged in suspected cheating shall be dismissed from the examination. Proof of the activity may result in disqualification to sit for future examinations.]

**§ 9.118. [NCARB standard examination; transition candidate] (Reserved).**

(a) The examination will be the ARE in computer-administered form as adopted by the NCARB.

(b) A candidate who did not successfully complete the entire examination in written format will be required to complete only the computer-administered portions which were not successfully completed in written format.

(1) A candidate who has not passed both parts of Division B: Site Design on or before June 30, 1996, will be required to successfully complete the Site Planning part.

(2) A candidate who did not successfully complete Division C: Building Design on or before June 30, 1996, will be required to successfully complete the Building Planning and Building Technology parts.]

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### **GRADING AND REVIEW**

**§ 9.131. [Examination grading] (Reserved).**

[The ARE shall be graded using procedures developed by NCARB in consultation with a professional testing organization. Examination results shall be recorded by the Board in the record of the candidate and shall be maintained in accordance with § 9.27 (relating to inactive records).]

**§ 9.132. [Grading compilation] (Reserved).**

[To qualify for licensure, a candidate shall receive a passing grade on each part or division of the examination. Grades received in individual parts or divisions will not be averaged. A candidate will have unlimited opportunities, subject to § 9.46(3) (relating to requirements for examination eligibility), to retake those portions of the examination which were failed.]

# PROPOSED RULEMAKING

1731

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
BASS Largemouth Smallmouth Spotted	January 1 to first Saturday after April 11 and first Saturday after June 11 to December 31.	Juniata River—All areas except as described in this subsection: 12 inches	6 (Combined species) ]
BASS Largemouth Smallmouth Spotted	Inland seasons, sizes and creel limits apply except for waters under special regulations (See Chapter 65). See § 61.1 (relating to Commonwealth inland waters). For Conowingo Reservoir, see § 61.4 (relating to Conowingo Reservoir).		

[ \*\*Note: Big Bass regulations—minimum size and creel limits—apply (see § 65.9) ]

## CHAPTER 65. SPECIAL FISHING REGULATIONS

### § 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

County	Name of Water	Special Regulations
[ Greene	Dunkard Creek	The daily creel limit for smallmouth bass is zero in an area from the confluence of Shannon Run at the ford on T-339 downstream to the bridge on SR 2009, a distance of 4.2 miles. Smallmouth bass may not be killed or had in possession in this special regulation area. ]

(Pa.B. Doc. No. 02-523. Filed for public inspection April 5, 2002, 9:00 a.m.)

## STATE ARCHITECTS LICENSURE BOARD

### [49 PA. CODE CH. 9] Examination Fees

The State Architects Licensure Board (Board) proposes to amend §§ 9.3, 9.41, 9.46 and 9.49a; add §§ 9.41a, 9.51 and 9.52; and delete §§ 9.111, 9.113, 9.114, 9.116—9.118, 9.131 and 9.132 to read as set forth in Annex A.

#### A. Effective Date

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

#### B. Statutory Authority

The proposed amendments are authorized under sections 8, 11 and 13 of the Architects Licensure Law (act) (63 P.S. §§ 34.8, 34.11 and 34.13).

#### C. Background and Purpose

Deletion of reference to the Architects Registration Examination (ARE) fee

The Board proposes to eliminate reference to the ARE examination fee over which the Board has no control or

involvement. The ARE is a recognized uniform examination used throughout the United States. The General Assembly has indicated its preference for the recognition of National uniform examinations and grading services in accordance with section 812.1 of The Administrative Code of 1929 (71 P.S. § 279.3a). The fee for the examination is established by the National examiner and communicated directly to the applicants. Applicants for the examination pay the examination fee directly to the National examiner. Thus, it is unnecessary and impractical for the Board to continue to publish the National examiner's examination fee in the Board's regulations.

In lieu of publishing the cost of the examination, the Board proposes to add § 9.41a (relating to adoption of National board examinations), which promulgates the fee established by the National Council of Architectural Registration Boards (NCARB).

#### Annual renewal fee for registered architecture firms

General operating and enforcement expenses of the Board are apportioned to the general licensee population through the collection of license renewal fees. Section 11(a) of the act requires the Board to increase fees by regulation if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period.

Section 13(j) of the act states that the Board shall, by promulgation of rules and regulations, require that registered architecture firms file with the Board information concerning their officers, directors, partners, professional association board of governors, beneficial owners, members or managers and other aspects of their organization as the Board deems appropriate. This section also authorizes the Board to charge each registered architecture firm an annual filing fee in an amount determined by the Board.

No renewal fee has been established for architecture firms. The Board seeks to establish a renewal fee for renewing the registration of architectural firms, thereby causing licensed firms to contribute to the general operating and enforcement expenses of the Board.

The annual fee of \$50 will be collected by the Board biennially. This means that, every 2 years, the Board will collect \$100 from each registered architecture firm.

#### Examination and grading procedures

Section 8(c) of the act authorizes the Board to adopt the examination and recommended grading procedures adopted by NCARB. Because the adoption of NCARB's examination and grading procedures would eliminate the

## PROPOSED RULEMAKING

Board's role in the process, the Board proposes to delete regulations outlining its role in the administration of the examination.

## D. Description of Amendments

Renewal fee for registered architecture firms

The following table outlines the affected fee and change:

Application	Current Fee	Proposed Fee
Annual renewal fee for registered architecture firms	\$0	\$ 50

## Licensure by examination

Section 9.41 (relating to general requirements) informs candidates that the subject matter of the ARE examination is available from the NCARB.

Proposed § 9.41a includes of National board examinations, including the test established by the NCARB.

Section 9.49a(a) (relating to diversified training requirements) informs candidates that information concerning the Intern Development Program (IDP) of the NCARB is available directly from the NCARB.

Section 9.49a(b) directs candidates to have the NCARB transmit a certificate of completion of IDP to the Board.

## Grading and review

Sections 9.51 and 9.52 (relating to examination grading and grading compilations) are identical to §§ 9.131 and 9.132 (relating to examination grading and grading compilation). The Board proposes that these two sections become §§ 9.51 and 9.52, so that they will appear alongside the related regulations referring to licensure by examination and examination. Sections 9.131 and 9.132 would then be deleted.

## Examination

Section 8(c) of the act authorizes the Board to adopt the examination and recommended grading procedures adopted by the NCARB. It is unnecessary to continue to publish §§ 9.111-9.113. The Board proposes that those sections of the regulations be deleted.

## E. Compliance with Executive Order 1996-1

In compliance with Executive Order 1996-1, "Regulatory Review and Compliance," in drafting and promulgating the proposed amendments, the Board considered the least restrictive means of covering the costs of services required to be performed by the Board. Further, on July 27, 2001, the Board solicited input from the American Institute of Architects of Pennsylvania and the National Council of Architect Registration Boards.

## F. Fiscal Impact and Paperwork Requirements

The proposed amendments will implement an annual renewal fee for registered architecture firms in this Commonwealth, but, otherwise, should have no fiscal impact on the private sector, the general public or political subdivisions.

The proposed amendments will require the Board to alter some of its forms to reflect the new fee; however, the proposed amendments should create no additional paperwork for the private sector.

## G. Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

## H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 21, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and Senate Consumer Protection and Professional Licensure Committees. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. 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 objections raised.

## I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Dorna Thorpe, State Architects Licensure Board, 116 Pine Street, P.O. Box 2649, Harrisburg, PA 17105-2649, dthorpe@state.pa.us, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

ANN SHEPARD HOUSTON,  
President

Fiscal Note: 16A-416. 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 9. STATE ARCHITECTS LICENSURE BOARD

## GENERAL PROVISIONS

## § 9.3. Fees.

(a) The cost of the ARE is \$980. The fee for each portion is:

Predesign	
Site Planning	\$ 92
Building Planning	\$129
Building Technology	\$155
General Structures	\$145
Lateral Forces	\$108
Mechanical and Electrical	\$ 79
	\$ 83

Material and Methods	\$ 90
Construction Documents and Services	\$ 99
(b) ] Initial license	\$ 40
[(c) ] Reciprocal license with NCARB Certification	\$ 30
Reciprocal license without NCARB Certification	\$ 50
[(d) ] Certification of licensure, registration or scores	\$ 25
[(e) ] Biennial renewal of license	\$100
[(f) ] Reactivation of lapsed or expired license	\$ 30
[(g) ] Firm practice registration or modification requiring new corporate structure	\$ 50
[(h) ] License or registration verification	\$ 15
Annual renewal fee for registered architecture firms (\$100 fee shall be assessed biennially)	\$ 50

#### LICENSURE BY EXAMINATION

##### § 9.41. General requirements.

Licensure may be granted to an applicant who has successfully passed the ARE examination. The subject matter is [ described in detail in the NCARB's Circular of Information No. 2 which is ] available from the [ Board or from the National Council of Architectural Registration Boards, 1735 New York Avenue, N.W., Suite 700, Washington, D.C. 20006 ] NCARB.

##### § 9.41a. Adoption of National Board Examinations.

(a) The Board has adopted the ARE given by the NCARB. Candidates for examination shall obtain applications directly from the NCARB and pay the fee for the examination directly to the NCARB.

(b) Candidates shall comply with examination procedures and conduct standards as established by the NCARB.

##### § 9.46. Requirements for examination eligibility.

(a) A candidate for the examination shall have:

\* \* \* \* \*

[(3) ] (b) An architectural degree candidate applying for first time licensure is required to pass the entire professional licensure examination of the Board within 5 years of the date of [ notice by the Board of ] eligibility to take the examination. The Board may waive this requirement upon proof of medical hardship or other extraordinary circumstances.

##### § 9.49a. Diversified training requirements.

(a) The Board has adopted NCARB Training Requirements for IDP [ as set forth in Appendix B to the 1985-1986 NCARB Circular of Information No. 1. The 1985-1986 NCARB Circular of Information No. 1 ]. This information is available from [ : National Council of Architectural Registration Boards, 1735 New York Avenue, N. W., Suite 700, Washington, D. C. 20006 ] the NCARB.

(b) The candidate shall keep records of required diversified training experience in accordance with NCARB IDP requirements. The candidate is responsible for having NCARB transmit a certificate of completion of IDP [ as part of the candidate's application. An application which does not contain a certificate will not be reviewed ] to the Board.

#### GRADING AND REVIEW

##### § 9.51. Examination grading.

The ARE shall be graded using procedures developed by NCARB in consultation with a professional testing organization. Examination results shall be recorded by the Board in the record of the candidate and shall be maintained in accordance with § 9.27 (relating to inactive records).

##### § 9.52. Grading compilation.

To qualify for licensure, a candidate shall receive a passing grade on each part or division of the examination. Grades received in individual parts or divisions will not be averaged. A candidate will have opportunities, subject to § 9.46(3) (relating to requirements for examination eligibility), to retake those portions of the examination which were failed.

#### EXAMINATION

##### § 9.111. [ Dates of examination ] (Reserved).

[ The ARE shall be given on dates and in the form as made available to the Board by the NCARB. ]

##### § 9.113. [ Location of examination site ] (Reserved).

[ The ARE shall be given at locations determined by the Board in conjunction with the NCARB. ]

##### § 9.114. [ Due notice ] (Reserved).

[ A candidate eligible to take the examination will be given due notice of the date, time and place of examinations and will be given specific preexamination instructions. Candidates may schedule and reschedule examinations in accordance with NCARB Administration Procedures. The NCARB will notify candidates of scheduling deadlines and costs of rescheduling at the time the candidate first is scheduled to take the examination. ]

##### § 9.116. [ Admittance ] (Reserved).

[ A candidate shall present his admission letter and form of positive identification for admittance to the examination. Candidates shall comply with examination procedures and conduct standards as established by NCARB. ]

##### § 9.117. [ Proctors ] (Reserved).

[ The professional testing organization will arrange for proctors at an examination whose duty it is to administer the conduct of the examination. Candidates will be given specific instructions as to conduct which will be deemed to constitute suspected cheating. A candidate found to have engaged in suspected cheating shall be dismissed from the examination. Proof of the activity may result in disqualification to sit for future examinations. ]

##### § 9.118. [ NCARB standard examination; transition candidate ] (Reserved).

[(a) ] The examination will be the ARE in computer-administered form as adopted by the NCARB.

(b) A candidate who did not successfully complete the entire examination in written format will be required to complete only the computer-



administered portions which were not successfully completed in written format.

(1) A candidate who has not passed both parts of Division B: Site Design on or before June 30, 1996, will be required to successfully complete the Site Planning part.

(2) A candidate who did not successfully complete Division C: Building Design on or before June 30, 1996, will be required to successfully complete the Building Planning and Building Technology parts. ]

#### GRADING AND REVIEW

§ 9.131. [ Examination grading ] (Reserved).

[ The ARE shall be graded using procedures developed by NCARB in consultation with a professional testing organization. Examination results shall be recorded by the Board in the record of the candidate and shall be maintained in accordance with § 9.27 (relating to inactive records). ]

§ 9.132. [ Grading compilation ] (Reserved).

[ To qualify for licensure, a candidate shall receive a passing grade on each part or division of the examination. Grades received in individual parts or divisions will not be averaged. A candidate will have unlimited opportunities, subject to § 9.46(3) (relating to requirements for examination eligibility), to retake those portions of the examination which were failed. ]

[Pa.B. Doc. No. 02-524. Filed for public inspection April 5, 2002, 9:00 a.m.]

## STATE BOARD OF OSTEOPATHIC MEDICINE

[49 PA. CODE CH. 25]

### Sexual Misconduct

The State Board of Osteopathic Medicine (Board) proposes to adopt § 25.215 (relating to sexual misconduct) to read as set forth in Annex A.

#### Effective Date

This proposed regulation will be effective upon publication as an order of final-form rulemaking in the *Pennsylvania Bulletin*.

#### Statutory Authority

Under sections 10.1(c), 15(a)(8) and (b)(9) and 16 of the Osteopathic Medical Practice Act (63 P.S. §§ 271.10a(c), 271.15(a)(8) and (b)(9) and 271.16), the Board has authority to establish standards of professional conduct for Board regulated practitioners under its jurisdiction. These individuals include osteopathic physicians, physician assistants and respiratory care practitioners. Proposed § 25.215 identifies when sexual contact by Board regulated practitioners with patients, and under certain circumstances, immediate family members of patients, will be deemed unprofessional conduct.

#### Background and Purpose

It should be axiomatic that it is unprofessional conduct for a health care practitioner to engage in sexual contact with patients. Past decisions of the Board which have

been upheld by the Commonwealth Court; the Code of Ethics, as published by the American Osteopathic Association; and responsible professional publications addressing the issue denounce sexual contact between practitioner and patient. Nevertheless, complaints are filed each year by consumers who have been harmed by Board regulated practitioners who engage in this conduct.

#### Description of Proposed Regulation

The proposed regulation seeks to better protect patients by providing guidance to the profession and the public as to prohibited conduct relating to sexual contact between practitioners and patients. The proposed regulation would prohibit any sexual contact between a Board regulated practitioner and a current patient. The proposed regulation would further prohibit any sexual contact between a Board regulated practitioner and a former patient prior to the 2 year anniversary of the termination of the professional relationship when the Board regulated practitioner has been involved with the management or treatment of a patient for a mental health disorder. This 2-year period was developed from professional literature which indicates that an imbalance of power between health care practitioners and patients continues after the professional relationship ends.

The proposed regulation would also prohibit sexual exploitation by a Board regulated practitioner of a current or former patient or immediate family member of a patient. "Sexual exploitation" is defined by the regulation as sexual behavior that uses the trust, knowledge, emotions or influence derived from the professional relationship. The Board believes that it is appropriate to protect immediate family members from sexual exploitation by Board regulated practitioners because immediate family members are often as vulnerable as the patients.

The proposed regulation would also provide that Board regulated practitioners who engage in prohibited sexual contact with patients or former patients will not be eligible for placement in the Board's impaired professional program in lieu of disciplinary or corrective actions. The impaired professional program is unable to effectively monitor Board regulated practitioners who have engaged in sexual misconduct.

The proposed regulation would also provide that patient consent will not be considered a defense to disciplinary action in these cases. The imbalance of power inherent in the health care practitioner—patient relationship not only serves as the basis for the prohibition but also undermines the patient's ability to consent to the sexual contact as an equal. Indeed, the Board's experience in adjudicating these cases has repeatedly demonstrated the reality of the inherent imbalance of the relationship and the patient's inability to give meaningful consent to sexual contact.

#### Fiscal Impact and Paperwork Requirements

The proposed regulation should have no fiscal impact on the Commonwealth or its political subdivisions. Likewise, the proposed regulation should not necessitate any legal, accounting, reporting or other paperwork requirements.

#### Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF ARCHITECTS LICENSURE**

Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-3397

October 24, 2002

The Honorable John R. McGinley, Jr., Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Final Regulation  
State Board of Architects Licensure  
16A-0416: Annual Renewal Fee for Registered Architecture Firms

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Architects Licensure pertaining to Annual Renewal Fee for Registered Architecture Firms.

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, reading "Ann Shephard Houston".

Ann Shephard Houston, RA, President  
State Board of Architects Licensure

ASH/RS:lw

Enclosure

cc: David M. Williams, Acting Commissioner  
Bureau of Professional and Occupational Affairs  
John T. Henderson, Jr., Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Herbert Abramson, Senior Counsel in Charge  
Department of State  
Roberta Silver, Counsel  
State Board of Architects Licensure  
State Board of Architects Licensure

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

I.D. NUMBER: 16A-0416  
SUBJECT: Annual Renewal Fee for Registered Architecture Firms  
AGENCY: DEPARTMENT OF STATE

**TYPE OF REGULATION**

Proposed Regulation  
X 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

REVIEW COMMISSION  
OCT 24 2002

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
10/24/02	<u>Lou A. Clark</u>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
<hr/>		
OCT 24 2002	<u>[Signature]</u>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
<hr/>		
10/24/02	<u>[Signature]</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
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		ATTORNEY GENERAL
<hr/>		
		LEGISLATIVE REFERENCE BUREAU
<hr/>		

October 16, 2002