

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petitions for Study

At the January 16, 1996, meeting of the Environmental Quality Board (EQB), the EQB accepted three rulemaking petitions for further study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy).

The petitions request changes to stream designations. These petitions were submitted by the Lloyd Wilson Chapter of Trout Unlimited for Fishing Creek (Clinton County), the Buck Hill Conservation Foundation for Buck Hill Creek (Monroe County) and the Blairsville Municipal Authority for Trout Run (Westmoreland County).

The petitions for Fishing Creek and Buck Hill Creek request redesignations of the waters as "Exceptional Value" from their present classifications as "High Quality—Cold Water Fishes." The Trout Run petition requests a Special Protection designation for the stream which is currently classified as "Cold Water Fishes."

After the completion of the Department of Environmental Protection's (Department) regulatory negotiation process for special protection waters, the Department will initiate its evaluations of the watersheds and prepare recommendations to the EQB on these petitions. If the Department recommends redesignating these water bodies, and the EQB concurs, the recommendations will be processed as proposed rulemakings with opportunity for public comment.

Copies of these petitions are available from the EQB, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, or e-mail at Freeman.Sharon@1.dep.state.pa.us.

JAMES M. SEIF,
Chairperson

[Pa.B. Doc. No. 96-177. Filed for public inspection February 9, 1996, 9:00 a.m.]

STATE BOARD OF OSTEOPATHIC MEDICINE

[49 PA. CODE CH. 25]

Renewal Fees

The State Board of Osteopathic Medicine (Board) proposes to amend § 25.231 (relating to schedule of fees) by raising the biennial renewal fee for osteopathic physicians for the licensure period which commences November 1, 1996. As proposed, the biennial renewal fee would increase from \$75 to \$140.

Background

Since 1975, the Board's revenue and expenses have been reserved in a restricted revenue account in the General Fund for exclusive use of the Board in implementing its licensure and enforcement activities. See section 907(b) of the Health Care Services Malpractice Act (40 P. S. § 1301.907(b)). As a restricted revenue

account in the General Fund, the Board derives its revenue from licensees; the sole purpose of the fund is to provide for the operations of the Board.

Beginning in 1978, the Legislature established the current biennial fee of \$75. The fee was initially established under section 13 of the Osteopathic Medical Practice Act (act) (63 P. S. § 271.13).

Section 13 of the act was subsequently repealed by amendments to the act in 1985 and replaced by section 13.1 of the act (63 P. S. § 271.13a). Section 13.1 of the act requires that effective January 1, 1986, the Board fix fees by regulation to meet expenditures over a 2-year period so that projected revenues would meet or exceed projected expenditures.

The Board's first biennial reconciliation of revenues and expenditures under section 13.1 of the act occurred with the November 1, 1988, renewal cycle. At that time, the Board's restricted account contained a substantial surplus of funds. Therefore, the Board anticipated that the existing \$75 biennial fee would be sufficient to meet or exceed expenditures for the next 3 biennial periods. See 19 Pa.B. 236 (January 20, 1989). At that rulemaking, the Board anticipated the surplus in the account would be used to defray expenses which, at that time, exceeded revenues.

In accordance with the Board's estimation, the balance in the restricted account was reduced in FY 1992-93 to \$607,760.49 and \$420,305.65 in FY 1994-95. At the same time, revenues over the last 3 biennial fiscal year periods have remained relatively constant (FY 1989-91: \$488,135; FY 1991-93: \$538,385; FY 1993-95: \$541,956). Thus, the increase in revenues over the period represents an 11% rise. In contrast, expenditures over the same 3 fiscal year periods increased by 69% (FY 1989-91: \$485,134; FY 1991-93: \$587,113; FY 1993-95: \$729,411).

The Board anticipates that its expenditures in FY 1995-96 and FY 1996-97 will increase at the current rate resulting in a deficit in the Board's restricted revenue account at the end of FY 1997. The sole source of funds of the restricted revenue account is revenue from the Board's various fees, principally biennial renewal fees. Therefore, the Board must generate sufficient revenue from its fees commencing with the November 1, 1996, biennial period to cover anticipated expenses for FY 1996-97 and to prevent deficits in FY 1997-1998 and FY 1998-1999. Unless the proposed increase is implemented, the Board is projected to have a deficit of \$266,000 on June 30, 1998, \$240,000 on June 30, 1999, and \$647,000 on June 30, 2000. Owing to the fact that the Board's operations are paid from an account restricted to revenues from licensee fees, the Board would be required to cease operations without an increase in revenue into its account. The Board has not raised renewal fees going back at least to 1978.

Proposed Amendment

In proposing to establish the new fee, the Board has calculated that its expenditures will increase approximately 16% over actual expenditures of \$729,411 reported in FYs 1993-1995. The projected growth in spending approximates the reported increases of the two largest cost centers of the Board's operations—legal services and Board administration—which represent 58% of the FY 1993-95 expenditures. These assumptions result in estimated expenditures of \$849,000 in FYs 1995-1997 and \$901,000 in FY 1997-1999. These estimates reflect the

Board's experience that while all fees, charges and fines collected under the act of March 19, 1909 (P. L. 46, No. 29), in estimating revenues over the same periods, the Board anticipates that the licensing population of 5,588 osteopathic physicians and the revenue from specific fees and fines will remain relatively constant. These estimates mirror the Board's experience in prior biennial cycles. Therefore, the general operations of the Board are sustained by licensees through the licensure renewal fee.

The Board's proposed new fee of \$140 is intended to capture the difference between the Board's total biennial expenditures and its total biennial revenue from nonrenewal sources. The total revenue anticipated from nonrenewal sources in the FYs 1995-97 is \$123,830, leaving \$782,320 to be recovered from biennial renewals.

Although the renewal fee has remained the same for years, the Board has improved administrative services to licensees as well as experienced growth in enforcement activities. In the fiscal year ending 1988, 64 disciplinary cases were opened and 66 were closed. In the fiscal year ending June 30, 1995, 115 cases were opened and 97 were closed.

The Board anticipates that with the implementation of the proposed increase it will not be necessary to increase renewal fees again for at least two biennial renewal periods and that the Board will have closing balances of \$96,000 on June 30, 1998, \$484,000 on June 30, 1999, and \$77,000 on June 30, 2000. The current renewal fee is the third lowest in the Nation for an osteopathic Board. Even with the increase, 38 states will have higher renewal fees for osteopathic physicians than the Commonwealth.

Statutory Authority

Section 13.1(a) of the act, requires the Board to establish fees by regulation. The same provision requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

Fiscal Impact

The proposed amendment will increase the biennial renewal fee for osteopathic physicians in this Commonwealth, but should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed amendment will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed amendment should not create additional paperwork for the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of this proposed amendment on January 29, 1996, to the Inde-

pendent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Professional Licensure and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposal, 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 1982-2, "Improving Government Regulations." A copy of the material is available to the public upon request.

If IRRC has any objections to any portion of the proposed amendment, it will notify the Board within 30 days from the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections prior to final publication of the regulation by the Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed amendment to Gina Bittner, Administrative Assistant, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

MORRIS A. FISHMAN, D.O.,
Chairperson

Fiscal Note: 16A-536. 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 25. STATE BOARD OF OSTEOPATHIC MEDICINE

Subchapter F. FEES

§ 25.231. Schedule of fees.

An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

	*	*	*	*	*
Biennial renewal—physicians					[\$75] \$140
	*	*	*	*	*

[Pa.B. Doc. No. 96-178. Filed for public inspection February 9, 1996, 9:00 a.m.]