

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 173]

### Flashing or Revolving Lights on Emergency and Authorized Vehicles

The Department of Transportation (Department), Bureau of Motor Vehicles, under the authority contained in sections 4103 and 6103 of the Vehicle Code (75 Pa.C.S. §§ 4103 and 6103), and consistent with the goals of Executive Order 1996-1, February 6, 1996, Regulatory Review and Promulgation, announces its intention to amend Chapter 173 (relating to flashing or revolving lights on emergency and authorized vehicles).

The purpose of this proposed rulemaking is to bring Chapter 173, into compliance with the act of December 19, 1998 (P. L. 1126, No. 151) (75 Pa.C.S. § 4552). These proposed amendments will eliminate any inconsistencies between the statute and the regulations as they relate to lights permitted on school buses. The act of December 19, 1998 (P. L. 1126, No. 151) (75 Pa.C.S. § 4552) allows school buses to be equipped with a bright white strobe light on the roof of the vehicle. Chapter 173 must be amended to incorporate identical language so as to avoid any conflict with the authorizing statute.

The Department anticipates that this proposed rulemaking will affect owners of school buses. Accordingly, the Department is requesting that within 10 days of the publication of this notice in the *Pennsylvania Bulletin*, all interested persons desiring to participate in the development of this proposed rulemaking or that have questions, suggestions or comments, should contact Thomas Zamboni, at 1101 South Front Street, Third Floor, Riverfront Office Center, Harrisburg, PA 17104, or call (717) 787-2895.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 99-497. Filed for public inspection March 26, 1999, 9:00 a.m.]

[67 PA. CODE CH. 175]  
Vehicle Equipment and Inspection

The Department of Transportation (Department), Bureau of Motor Vehicles, under the authority contained in sections 4303 and 6103 of the Vehicle Code (75 Pa. C.S. §§ 4303 and 6103), and consistent with the goals of Executive Order 1996-1, February 6, 1996, Regulatory Review and Promulgation, announces its intention to amend Chapter 175 (relating to vehicle equipment and inspection).

The purpose of this proposed rulemaking is to bring Chapter 175, into compliance with the act of April 17, 1997 (P. L. 6, No. 3) (75 Pa. C.S. § 4702) and the act of December 19, 1998 (P. L. 1126, No. 151) (75 Pa. C.S. §§ 102, 4303, 4537, 4702 and 4703). These proposed

amendments will eliminate any inconsistencies between the statute and the regulations as they relate to the definition of specific vehicles and frequency of inspections for trailers and vehicles under contract with, or owned by, a school district, private or parochial school used to transport students. This proposed rulemaking will also clarify that only antique vehicles registered under 75 Pa.C.S. § 1340 (relating to antique, classic and collectible plates) are exempt from the safety inspection program; that new vehicles which are in some state of construction or modification and which are being transported to or by a second stage manufacturer are also afforded exemption from the inspection requirements; and that pedalcycle carrying devices may be installed on the front of buses.

The Department anticipates that this proposed rulemaking will affect owners of modular housing units, motorized pedalcycles, passenger cars, special mobile equipment, trucks and self-propelled wheelchairs or electrical mobility devices, antique vehicles, new vehicles in the possession of a second stage manufacturer, vehicles that are under contract with a school district to transport school students or vehicles owned by a school district or private or parochial school used to transport school students, trailers over 10,000 pounds and buses with pedalcycle carrying devices mounted on the front.

Accordingly, the Department is requesting that within 30 days of the publication of this notice in the *Pennsylvania Bulletin*, all interested persons desiring to participate in the development of this proposed rulemaking or that have questions, suggestions or comments, should contact Thomas Zamboni, at 1101 South Front Street, Third Floor, Riverfront Office Center, Harrisburg, PA 17104, or call (717) 787-2895.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 99-498. Filed for public inspection March 26, 1999, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

[25 PA. CODE CH. 1021]  
Practice and Procedure

The Environmental Hearing Board (Board) has extended the public comment period on its current proposed regulatory package, 106-4, published at 29 Pa. B. 1074 (February 27, 1999), for 30 days. The extension would allow the Board to apprise the environmental legal community of the package at the Statewide Environmental Law Forum scheduled for April 15 and 16 and to obtain comments from the practitioners.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 99-499. Filed for public inspection March 26, 1999, 9:00 a.m.]

# STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11]

## Continuing Education Program Sponsors

Under Executive Order 1996-1 (relating to regulatory review and promulgation), the State Board of Accountancy is soliciting preliminary input, prior to publication of proposed rulemaking, on draft amendments to its regulations relating to continuing education program sponsors.

The draft amendments would set forth new requirements for program sponsors effective May 1, 2000. The new requirements would enhance program sponsor standards and responsibilities, provide for onsite and offsite review of program sponsor offerings, clarify the grounds for withdrawal of program sponsor approval and establish fees for initial program sponsor approval and biennial renewal of approval. Currently approved program sponsors desiring to offer continuing education to certified public accountants and public accountants after April 30, 2000, would be required to apply for re-approval under the new requirements.

Currently approved and prospective program sponsors are invited to submit preliminary input on the draft amendments no later than April 30, 1999. Copies of the draft amendments may be obtained by writing or telephoning Steven Wennberg, Counsel, State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7200 and fax (717) 787-0251.

THOMAS J. BAUMGARTNER, CPA,  
*Chairperson*

[Pa.B. Doc. No. 99-500. Filed for public inspection March 26, 1999, 9:00 a.m.]

# STATE BOARD OF OSTEOPATHIC MEDICINE

[49 PA. CODE CH. 25]

## Application Fees

The State Board of Osteopathic Medicine (Board) proposes to amend §§ 25.231 and 25.503 (relating to schedule of fees; and fees) by revising those fees which are not related to license renewals but rather to applications and specific services so as to accurately reflect the cost of processing applications and providing services. The proposed changes are set forth in Annex A.

### A. Effective Date

The proposed amendments will take effect when they are published as final rulemaking in the *Pennsylvania Bulletin*.

### B. Statutory Authority

Section 13.1(a) of the Osteopathic Medical Practice Act (act) (63 P. S. § 271.13a(a)), 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.

### C. Background and Purpose

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures. General operating expenses of the Board are funded through biennial license renewal fees which are paid by all licensees. Expenses of the Board which are related to processing individual applications or providing certain services directly to individual licensees or applicants are excluded from general operating revenues. These expenses are funded through fees which are based on the cost of providing the service. The fee is charged to the person requesting the service. These application and service fees are the focus of this proposed rulemaking.

A recent systems audit of the operations of this and other boards within the Bureau of Professional and Occupational Affairs analyzed the fees for services to licensees and applicants to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based on the following formula:

$$\begin{array}{r} \text{number of minutes to perform the function} \\ \times \\ \text{pay rate of personnel performing the function} \\ + \\ \text{a proportionate share of administrative overhead.} \end{array}$$

The analysis determined that the current application and service fees did not accurately reflect the actual cost of processing the following: application for osteopathic license; application for short-term camp license for an osteopathic physician; temporary training license or graduate training certificate for osteopathic physician; application for physician assistant certificate; application for registration as supervising physician; uncertified verification of license or permit; certification of license, examination grades or hours; application for registration as an acupuncturist; application for registration as an acupuncturist supervisor; temporary permit for respiratory care practitioner; initial license application for respiratory care practitioner; and fees for American Registry of Radiologic Technologists examinations.

Fees for most of these services were established in 1990. The fee for application for osteopathic license was established in January, 1989. The fees regarding acupuncturists were established in January, 1994. The fees for application for respiratory care practitioner and for a temporary permit for respiratory care practitioner were established in November, 1996. In some cases the fees exceeded actual cost, but in most, the fees fell short of the cost to provide the service.

Fees for the services identified in this proposal would be adjusted to allocate costs to those who use the service or submit the application.

The Board proposes a new fee of \$25 to cover the cost of processing applications for the Radiography, Nuclear Medicine Technology, Radiation Therapy Technology, limited Examination in Radiography—Thorax and extremities and limited examination in Radiography—skull and sinuses. The Board had previously charged a fee for each examination which covered the cost of both processing the application and the examination itself. The examination fee is now paid to the examination contractor and covers only the cost of the examination, not the Board's cost in processing the application. The application fee now covers the cost of processing the application.

The Board also proposes to delete from its regulations the fee for Study Materials for ARRT Limited Examination in Radiography. As a convenience to applicants taking the limited radiography examination, the Board

makes available study materials for applicants. Applicants are not required to purchase the materials either by the Board or any other entity. The Board is not required to provide the materials. The Board purchases the materials from the publisher and passes the materials on to those applicants who wish to obtain them. The Board improvidently implemented this optional service as a fee set by regulation. The publishers have changed the price of the materials several times since the implementation of the fee. The publisher does not give notice of its intention to change price. It is impractical for the Board to attempt to maintain a fee for this completely optional service. At the present time the publisher charges \$27 for the materials. The Board loses money every time it provides the materials because the fee is fixed at \$21. The Board proposes to delete the fee so that the materials could be provided at actual cost.

The fee increases have resulted from increases in staff costs and administrative overhead. The significant decreases in the costs of the application for unrestricted license to practice as an osteopathic physician and the application for physician assistant result from the processing of routine applications by Board staff. The Board had previously reviewed all physician and physician assistant applications. The Board now reviews only those physician and physician assistant applications which appear to contain problems or discrepancies.

*D. Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 1, 1996), in drafting and promulgating the proposed amendments the Board considered the proposed amendments as both required by law and the least restrictive means of covering the costs of services requested by licensees and applicants.

*E. Fiscal Impact and Paperwork Requirements*

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from the Board. The amendments will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

*F. Sunset Date*

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

*G. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 17, 1999, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed amendments, 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 the material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days of the close of the Committees' review 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 agency, the General Assembly and the Governor.

*H. Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking 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*. Please reference No. 16A-5310 (Application Fees) when submitting comments.

SILVIA M. FERRETTI, D.O.,  
*Chairperson*

**Fiscal Note:** 16A-5310. 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:

|   |               |
|---|---------------|
| Application for unrestricted license to practice as osteopathic physician—original reciprocal, boundary or by endorsement | \$ [ 85 ] 45  |
| Application for short-term camp license as osteopathic physician. . . . .   | \$ [ 25 ] 30  |
| * * * * *   |               |
| Temporary training license or graduate training certificate . . . . .   | \$ [ 25 ] 30  |
| * * * * *   |               |
| Application for physician assistant certificate . . . . .   | \$ [ 85 ] 30  |
| Application for supervising physician . . . . .   | \$ [ 80 ] 95  |
| Uncertified verification of [ licensure ] any license or permit . . . . .   | \$ [ 10 ] 15  |
| Certification of [ licensure ] any license, examination grades or hours . . . . .   | \$ [ 15 ] 25  |
| * * * * *   |               |
| <b>Application for radiology (ARRT) examinations . . . . .</b>  | <b>\$25</b>   |
| ARRT Examination in Radiography . . . . .   | \$ [ 30 ] 20  |
| ARRT Examination in Nuclear Medicine Technology . . . . .   | \$ [ 30 ] 20  |
| <b>ARRT Examination in Radiation Therapy Technology . . . . .</b>   | <b>\$20</b>   |
| ARRT Limited Examination in Radiography—Thorax and Extremities . . . . .  | \$ [ 35 ] 25  |
| ARRT Limited Examination in Radiography—Skull and Sinuses . . . . .   | \$ [ 35 ] 25  |
| <b>[ Study Materials for ARRT Limited Examination in Radiography . . . . .</b>  | <b>\$21 ]</b> |
| Application for acupuncturist registration . . . . .  | \$ [ 15 ] 30  |
| * * * * *   |               |
| Application for acupuncturist supervisor registration . . . . .   | \$ [ 15 ] 30  |

**Subchapter K. RESPIRATORY CARE  
PRACTITIONERS**

**§ 25.503. Fees.**

The following is the schedule of fees charged by the Board:

|  |            |
|--|------------|
| (1) Temporary permit .....                                   | \$[ 15 ]30 |
| (2) Initial [ certification ] license appli-<br>cation ..... | \$[ 15 ]30 |
| (3) Certification examination .....                          | [ \$90     |
| (Effective 7-96) ] .....                                     | \$100      |
| * * * * *  |            |

[Pa.B. Doc. No. 99-501. Filed for public inspection March 26, 1999, 9:00 a.m.]

**STATE BOARD OF  
PHYSICAL THERAPY**

[49 PA. CODE CH. 40]

**Fees**

The State Board of Physical Therapy (Board) proposes to amend §§ 40.5 and 40.153 (relating to fees) by revising certain application fees to read as set forth in Annex A.

*A. Effective Date*

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

*B. Statutory Authority*

The proposed amendments are authorized under section 8(b) of the Physical Therapy Practice Act (act) (63 P. S. § 1308(b)).

*C. Background and Purpose*

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses of the Board are funded through biennial license renewal fees. Expenses related to applications or services which are provided directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee.

In a recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs, the fees for services to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

$$\begin{aligned} & \text{number of minutes to perform the function} \\ & \quad \times \\ & \text{pay rate for the classification of personnel performing} \\ & \quad \text{the function} \\ & \quad + \\ & \text{a proportionate share of administrative overhead.} \end{aligned}$$

The analysis determined that certain fees were insufficient to capture the actual cost of providing the service whereas certain other fees were more than sufficient to capture the cost of providing the service. For example, the proposed fee for an application for licensure as a physical

therapist by foreign training would be reduced from \$160 to \$45 which is the actual cost of processing this application.

In this proposal, fees for the services identified would be adjusted to allocate costs to those who use the service or application. The Board would continue to apportion the enforcement and operating costs to the general licensing population when the Board makes its biennial reconciliation of revenue and expenditures.

In addition, this proposal combines all fees into one section rather than splitting fees pertaining to physical therapist assistants into a separate section.

*D. Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposed amendments the Board considered the least restrictive alternative to regulate costs for services requested by licensees and applicants.

*E. Fiscal Impact and Paperwork Requirements*

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from the Board. The proposed amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

*F. Sunset Date*

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

*G. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 17, 1999, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed amendments, 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.

If IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days of the close of the Committees' review 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, prior to final publication of the amendments, by the Board, the General Assembly and the Governor, of objections raised.

*H. Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Robert Kline, Administrative Assistant, State Board of Physical Therapy, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-655 (Application Fees), when submitting comments.

JAY IRRGANG,  
Chairperson

**Fiscal Note:** 16A-655. 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 40. STATE BOARD OF PHYSICAL THERAPY

Subchapter A. PHYSICAL THERAPISTS  
GENERAL PROVISIONS

§ 40.5. Fees.

The following fees are charged by the Board:

*Physical therapist:*

Application for licensure by examination/endorsement . . . . . \$[ 20 ] 30

[ Application for licensure by endorsement . \$20 ]

Application for licensure [ by ] through foreign training . . . . . \$[ 160 ] 45

[ *Physical therapy examination:*

(Effective 11/95) . . . . . \$230 ]

Verification of licensure or temporary permit . . . . . \$15

Certification of examination scores or licensure . . . . . \$25

Examination [ (Effective 3/97) ] . . . . . \$245

\* \* \* \* \*

*Athletic trainer:*

\* \* \* \* \*

[ Physical therapist assistant listing . . . . . \$15 ]

Certification of examination scores or certification [ of licensure ] . . . . . \$[ 15 ] 25

Verification of [ licensure or ] certification . . . . . \$[ 10 ] 15

*Physical therapist assistants:*

Initial application for registration by exam or endorsement . . . . . \$30

Registration examination . . . . . \$230

Certification of exam scores or registration . . . . . \$25

Biennial renewal of registration . . . . . \$20

Verification of registration . . . . . \$15

Subchapter C. PHYSICAL THERAPIST ASSISTANTS

GENERAL PROVISIONS

§ 40.153. [ Fees ] (Reserved).

[ The following is a schedule of fees charged by the Board:

Initial registration . . . . . \$15

Physical Therapist Assistant Registration Examination (effective 11/95) . . . . . \$230

Certification of registration . . . . . \$15

Biennial renewal of registration . . . . . \$20 ]

[Pa.B. Doc. No. 99-502. Filed for public inspection March 26, 1999, 9:00 a.m.]