

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF PHYSICAL THERAPY [49 PA. CODE CH. 40]

#### Fees

The State Board of Physical Therapy (Board) amends § 40.5 (relating to fees) and deletes § 40.153 (relating to fees) to read as set forth in Annex A.

This rulemaking amends application and some certification fees and creates other certification and verification fees to reflect the Board's actual cost of providing the services.

Notice of proposed rulemaking was published at 29 Pa.B. 1615 (March 27, 1999). Publication 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 received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

The following is a response to the comments.

#### *Certification and Verification Fee*

The HPLC questioned under what circumstances the Board "certifies" an examination score. The HPLC and IRRC also requested an explanation of the difference between a verification and certification and an explanation of what accounts for the differential in fees.

The certification of a score is made at the request of a licensee when the licensee is seeking to obtain licensure in another state based upon licensure in this Commonwealth which was issued on the basis of a uniform National or regional examination which was taken in this Commonwealth. Generally the state of original licensure is the only source of the score of the licensee as testing agencies do not maintain this information. The licensure laws of many states include provisions that licensure by reciprocity or endorsement based on licensure in another state will be granted only if the board or agency determines that the qualifications are the same or substantially similar. Many state agencies have interpreted this provision to require that licensees have attained a score equal to or exceeding the passing rate in that jurisdiction at the time of original licensure. For this reason, these states require that the Pennsylvania Board and other boards certify the examination score the applicant achieved on the licensure examination.

As noted in proposed rulemaking, the difference between the verification and certification fees is the amount of time required to produce the document requested by the licensee. As noted, states request different information when making a determination as to whether to grant licensure based on reciprocity or endorsement from another state. The Bureau of Vocational and Occupational Affairs (Bureau) has been able to create two documents from its records that will meet all of the needs of the requesting state. The licensee, when applying to the other state, receives information as to what documentation and

form is acceptable in the requesting state. The Bureau then advises the licensee of the type of document the Bureau can provide and the fee. In the case of a "verification," the staff produces the requested documentation by a letter, usually computer generated, which contains the license number, date of original issuance and current expiration date, and status of the license. The letters are printed from the Bureau's central computer records and sent to the Board staff responsible for handling the licensee's application. The letters are sealed, folded and mailed in accordance with the directions of the requestor. The Bureau estimates the average time to prepare this document to be 5 minutes. The Bureau uses the term "certification fee" to describe the fee for a request for a document, again generally to support reciprocity or endorsement applications to other states, territories or countries, or for employment or training in another state. A certification document contains information specific to the individual requestor. It may include dates or location where examinations were taken, the scores achieved or hours and location of training. The information is entered onto a document which is usually supplied by the requestor. The average time to prepare a certification is 45 minutes. This is because a number of resources, such as files, microfilm and rosters must be retrieved and consulted to provide the information requested. The Board staff then seals and issues this document.

#### *Administrative Overhead*

IRRC requested that the Bureau and the Board: (1) itemize the overhead cost to be recouped by the fees; and (2) reexamine the method that is used to determine the administrative overhead factor for each fee.

IRRC commented that although the Bureau's method was reasonable, there was no assurance that the fees would recover the actual overhead cost because the charge was not related to the service, and because the charge was based on the actual rather than the projected expenditures. IRRC also commented that there was no certainty that the projected revenues would meet or exceed projected expenditures, as required under the Board's enabling statute.

In computing overhead charges, the boards and the Bureau include expenses resulting from service of support staff operations, equipment, technology initiatives or upgrades, leased office space and other sources not directly attributable to a specific board. Once determined, the Bureau's total administrative charge is apportioned to each board based upon that board's share of the total active licensee population. In turn, the board's administrative charge is divided by the number of active licensees to calculate a "per application" charge which is added to direct personnel cost to establish the cost of processing. The administrative charge is consistently applied to every application regardless of how much time the staff spends processing the application.

This method of calculating administrative overhead to be apportioned to fees for services was first included in the biennial reconciliation of fees and expenses conducted in 1988-89. In accordance with the regulatory review, the method was approved by the Senate and House Standing Committees and IRRC as reasonable and consistent with the legislative intent of statutory provisions which require the Board to establish fees which meet or exceed expenses.

IRRC suggested that within each board, the administrative charge should be determined by the amount of time required to process each application. For example, an application requiring 1/2 hour of processing time would pay 1/2 as much overhead charge as an application requiring 1 hour of processing time. The Bureau concurs with IRRC that by adopting this methodology the Bureau and the Boards would more nearly and accurately accomplish their objective of setting fees that cover the cost of the service. Therefore, in accordance with IRRC's suggestions, the Bureau conducted a test to compare the resulting overhead of charge obtained by applying IRRC suggested time factor versus the current method. This review of a board's operation showed that approximately 25% of staff time was devoted to providing services described in the regulations. The current method recouped 22% to 28% of the administrative overhead charges versus the 25% recouped using a ratio-based time factor. However, when the time factor is combined with the licensing population for each board, the resulting fees vary widely even though different licensees may receive the same services. For example, using the time-factor method to issue a verification of licensure would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Conversely, under the Bureau method the administrative overhead charge of \$9.76 represents the cost of processing a verification application for all licensees in the Bureau. Also, the Bureau found that employing a time factor in the computation of administrative overhead would result in a different amount of overhead charge being made for each fee proposed.

With regard to IRRC's suggestions concerning projected versus actual expenses, the Board notes that the computation of projected expenditures based on amounts actually expended has been the basis for biennial reconciliations for the past 10 years. During these 5 biennial cycles, the experience of both the boards and the Bureau has been that established and verifiable data which can be substantiated by collective bargaining agreements, pay scales and cost benefit factors has provided a reliable basis for fees. Also, the fees are kept at a minimum for licensees, but appear adequate to sustain the operations of the boards over an extended period. Similarly accounting, recordkeeping and swift processing of applications, renewals and other fees were the primary basis for "rounding up" the actual costs to establish a fee. This rounding up process has in effect resulted in the necessary but minimal cushion or surplus to accommodate unexpected needs and expenditures.

For these reasons, the Board has not made changes in the method by which it allocates administrative expenditures and the resulting fees will remain as proposed.

*Compliance with Executive Order 1996-1, Regulatory Review and Promulgation*

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final-form regulations address a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

*Fiscal Impact and Paperwork Requirements*

The 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 impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

*Statutory Authority*

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

*Sunset Date*

The Board continually monitors the effectiveness of its regulations through communications with the regulated population; accordingly, no sunset date has been set.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 1615 to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Board has considered the comments received from the Committees, IRRC and the public.

These final-form regulations were approved by the HPLC on November 13, 2000, and deemed approved by the SCP/PLC on November 20, 2000. IRRC met on December 14, 2000, and approved the final-form regulations in accordance with section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)).

*Contact Person*

Further information may be obtained by contacting Robert Kline, Administrative Assistant, State Board of Physical Therapy, P. O. Box 2649, Harrisburg, PA 17105-2649; (717) 783-7134.

*Findings*

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (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 and all comments were considered.
- (3) These amendments do not enlarge the purpose of proposed rulemaking published at 29 Pa.B. 1615.
- (4) These amendments are necessary and appropriate for administration and enforcement of the Board's authorizing statute.

*Order*

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 40, are amended by amending § 40.5 and by deleting § 40.153 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

JAMES J. IRRGANG,  
*Chairperson*

**Fiscal Note:** Fiscal Note 16A-655 remains valid for the final adoption of the subject regulations.

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 6964 (December 30, 2000).)

**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. GENERAL PROVISIONS**

**§ 40.5. Fees.**

The following fees are charged by the Board:

*Physical therapist:*

Application for licensure by examination/endorsement.....	30
Application for licensure thru foreign training .	45

Verification of licensure or temporary permit ..	15
Certification of examination scores or licensure	25
Examination.....	245
Temporary license .....	15
Biennial renewal .....	37

*Athletic trainer:*

Application for certification.....	20
Athletic trainer examination.....	83.75
Biennial renewal .....	37
Certification of examination scores or certification.....	25
Verification of certification.....	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**

**§ 40.153. (Reserved).**

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