

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

[49 PA. CODE CH. 43b]

Schedule of Civil Penalties—Nurses

The Commissioner of Professional and Occupational Affairs (Commissioner) hereby rescinds § 43b.18 (relating to schedule of civil penalties—nurses—statement of policy) and replaces it with § 43b.18a (relating to schedule of civil penalties—nurses) to read as set forth in Annex A.

Effective date

The amendments are effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory authority

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards and commissions in the Bureau of Professional and Occupational Affairs (Bureau), to promulgate a schedule of civil penalties for violations of the acts or regulations of the licensing boards or commissions.

Background and purpose

Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's boards and commissions. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive an Act 48 citation retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented, and they have become an important part of the Bureau's enforcement efforts, with approximately 30% of all sanctions imposed by the boards and commissions being accomplished through the Act 48 citation process.

Annex A sets forth amendments to the civil penalty schedule of the State Board of Nursing (Board). The amendments were drafted following discussions with a representative of the Commissioner and the Board at regularly scheduled public meetings. The schedule of civil penalties for lapsed license violations was previously published as a statement of policy at 34 Pa.B. 5809 (October 23, 2004). This rulemaking codifies the schedule of civil penalties as a regulation.

In addition, the schedule of civil penalties is being amended to establish new civil penalties for violation of the continuing education requirement recently enacted in section 12 of the Professional Nursing Law (law) (63 P. S. § 222). Section 12 of the law requires professional nurses to complete 30 hours of continuing education during each biennium. The Board is promulgating comprehensive regulations implementing the mandate of section 12 of the law through separate rulemaking. The Commissioner is adopting a civil penalty schedule for violation of the continuing education requirements for professional nurses

because with over 200,000 professional nurses now subject to continuing education requirements, the Commissioner and Board believe the Act 48 citation process will be a much more efficient method of handling violations, while still ensuring licensees due process.

Description of the amendments

The Commissioner, in consultation with the Board, is establishing a \$250 civil penalty for the first offense of failing to complete 1 to 10 hours of continuing education in a biennial period; a \$500 civil penalty for failing to complete 11 to 20 hours of continuing education in a biennial period; and a \$1,000 civil penalty for failing to complete 21 to 30 hours of continuing education in a biennial period. Second and subsequent offenses would not be subject to an Act 48 citation, but rather, would proceed through the formal disciplinary process.

Summary of comments to the proposed rulemaking and the Commissioner's response

Notice of proposed rulemaking was published at 37 Pa.B. 1986 (April 28, 2007). During the public comment period, the Commissioner received comments from the Pennsylvania State Education Association (PSEA). In addition, as part of their review under the Regulatory Review Act (71 P. S. §§ 745.1—745.12a), the House Professional Licensure Committee (HPLC) submitted a comment. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. On June 28, 2007, the Commissioner received a letter from the Independent Regulatory Review Commission (IRRC) indicating that the Commission had no objections, comments or recommendations to offer on this regulation. The following represents a summary of the comments received and the Commissioner's response.

The PSEA expressed the opinion that the schedule of civil penalties for nurses who fail to complete mandatory continuing education is too harsh. In addition, the PSEA commented that there did not appear to be any due process provisions in the regulations to allow the nurse to appeal the imposition of a fine.

As a result of these comments, the Commissioner discussed the civil penalty schedule with the Board and concluded that the civil penalties are not excessive; in fact, they are significantly lower than the fines imposed by many other licensing boards in the Bureau for continuing education violations. For example, some boards routinely impose civil penalties of \$50 to \$100 per credit hour deficient. For ease of administration and due to the significantly larger licensee population of the Board, the Board and the Commissioner have determined that the civil penalties should be imposed in blocks of credits deficient rather than per credit hour. The Commissioner and the Board believe that these civil penalties are not excessive and will serve as a sufficient deterrent to prevent nurses from neglecting their mandatory continuing education requirement.

The procedures for appealing a civil penalty imposed by citation are set forth in § 43b.3 (relating to procedures). A nurse who wishes to dispute the imposition of a civil penalty imposed by citation simply declares this intention and mails the citation form back to the Bureau. A hearing is then scheduled before a hearing examiner, for which the nurse is notified by first class mail. If the nurse disagrees with the decision of the hearing examiner, the nurse may appeal it to the Board. If the Board ultimately

determines that the nurse has violated the regulations and is subject to the civil penalty, the nurse may appeal the Board's decision to the Commonwealth Court of Pennsylvania. The nurse's due process rights are fully protected by these procedures.

The HPLC noted that the schedule of civil penalties also includes a civil penalty for practicing on a lapsed license and that the continuing education requirement was imposed by the General Assembly as a condition for biennial renewal. Therefore, the HPLC asked whether a nurse would be subject to the civil penalties for both the failure to complete the continuing education requirement and for practicing on a lapsed license. Because the Bureau's enforcement of the continuing education requirements for all of the health-related boards is accomplished by way of post-renewal audit which is not accomplished until after the biennial renewal is completed, all otherwise renewable licenses are renewed. The Board has elected to impose a 6-month compliance period following the end of the biennial renewal period in which all deficient continuing education must be made up. Those nurses who self-report or who are identified as having been deficient through the postrenewal audit will be subject to the civil penalty for violation of the continuing education requirements. Those nurses who falsely certified that they were in compliance when they renew their licenses may also be subject to disciplinary action for violation of section 14(a)(4) of the law (63 P. S. § 224(a)(4)), which prohibits fraud or deceit in securing admission to practice. In addition, nurses who fail to make up the continuing education during the 6-month compliance period, or have subsequent continuing education violations, will be subject to additional discipline, including additional civil penalties, reprimand or even suspension until the nurse comes into compliance. However, a nurse's license will remain active during the disciplinary process, therefore, the Board does not anticipate many circumstances when civil penalties for practicing on a lapsed license would be imposed in addition to the civil penalties for failure to complete the continuing education.

No amendments were made to the final-form rulemaking as a result of these comments.

Fiscal Impact and Paperwork Requirements

The amendments would have no adverse fiscal impact on the Commonwealth or its political subdivisions, and would reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for those violations subject to the Act 48 citation process.

Sunset Date

Professional licensure statutes require each board and commission to be self-supporting; therefore, boards and commissions continually monitor the cost effectiveness of regulations affecting their operations. As a result, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 18, 2007, the Commissioner submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1986, to the IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of

the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 24, 2008, the final-form rulemaking was approved by the HPLC. On June 4, 2008, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5(g) of the Regulatory Review Act was deemed approved effective June 4, 2008.

Additional Information

Additional information may be obtained by writing to Basil L. Merenda, Commissioner of Professional and Occupational Affairs, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Commissioner 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 under those provisions in 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) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 37 Pa.B. 1986.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the Act 48.

Order

The Commissioner, acting under the authority provided under Act 48, orders that:

(a) The civil penalty schedules promulgated by the Commissioner, 49 Pa. Code Chapter 43b, are amended by deleting the statement of policy in § 43b.18 and by adding § 43b.18a to read as set forth in Annex A.

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

(c) The Commissioner 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 on publication in the *Pennsylvania Bulletin*.

BASIL L. MERENDA,
Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3461 (June 21, 2008).)

Fiscal Note: Fiscal Note 16-38 remains valid for the adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.18. (Reserved).

§ 43b.18a. Schedule of civil penalties—nurses.

STATE BOARD OF NURSING

Violation under 63 P. S.	Title/Description	Civil Penalty
Section 225.4	Practicing professional nursing on a lapsed license	1st offense— 0—12 mos.— \$100 per month up to \$1,000 Over 12 months— Formal action 2nd offense— Formal action
Section 664(4)	Practicing practical nursing on a lapsed license	1st offense— 0—12 mos.— \$75 per month; Over 12 months— Formal action 2nd offense— Formal action
Section 225.4	Holding oneself out as a licensed dietitian-nutritionist on a lapsed license	1st offense— 0—12 months— \$100 per month up to \$1,000 Over 12 months— Formal action 2nd offense— Formal action
Section 222(b)	Failure to complete 30 hours of approved continuing education	1st offense— Deficiency of 1—10 hours—\$250 Deficiency of 11—20 hours—\$500 Deficiency of 21—30 hours—\$1,000 2nd offense— Formal action

[Pa.B. Doc. No. 08-1253. Filed for public inspection July 3, 2008, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Fee for Approval of Continuing Education Courses for Certified Registered Nurse Practitioners

The State Board of Nursing (Board) amends § 21.253 (relating to fees) to read as set forth in Annex A. Section 21.253 is amended by setting an application fee for approval of certified registered nurse practitioner (CRNP) continuing education courses.

Description and Need for the Rulemaking

Section 8.1 of the Professional Nursing Law (act) (63 P. S. § 218.1) requires each CRNP to complete, in the 2 years prior to CRNP certification renewal, at least 30 hours of continuing education approved by the Board. For a CRNP with prescriptive authority, the 30 hours of continuing education must include at least 16 hours in pharmacology. In initially promulgating regulations to implement CRNP continuing education in 2004, the Board preapproved continuing education courses offered by certain providers whom the Board anticipated would develop and offer the vast majority of programs for CRNP continuing education. However, the Board also recognized that other entities would provide CRNP continuing education and provided in that rulemaking that any other provider of CRNP continuing education and individual CRNPs could seek approval of a continuing education course. The rulemaking provided that an applicant for approval of a CRNP continuing education course must pay the required fee; however, the rulemaking did not set the fee.

Section 11.2(a) and (d) of the act (63 P. S. § 221.2(a) and (d)) requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses for enforcement of the act are funded through biennial license renewal fees. The various licensing boards of the Bureau of Professional and Occupational Affairs attempt to recover expenses related to specific services directly through fees based upon the actual cost of providing the service. The Department of State has determined that the cost to review an application for approval of a CRNP continuing education course is \$100. To implement the fee necessary for this service of reviewing an application for approval of a CRNP continuing education course offered by a provider that is not on the preapproved provider list, the Board now sets this fee at \$100.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 37 Pa.B. 1035 (March 3, 2007) with a 30-day public comment period. The Board received no written comments from members of the public during the public comment period.

On April 18, 2007, the House Professional Licensure Committee (HPLC), as part of its review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12a), notified the Board that the HPLC had no comments and would take no formal action on the proposed rulemaking until final promulgation. The Board received no comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of its review of proposed rulemaking under the Regulatory Review Act. On May 2, 2007, the Independent Regulatory Review Commission (IRRC), as part of its review of proposed rulemaking under section 5(a) of the

Regulatory Review Act (71 P. S. § 745.5(a)), notified the Board that IRRC had no objection, comments or recommendations to offer on the proposed rulemaking.

Subsequent to the close of the public comment period, the Board received comments from the American College of Nurse-Midwives (ACNM). ACNM first suggested, to minimize costs to the Board, that the Board form a committee of CRNP educators to review courses on a volunteer basis. Because section 8.1(c) of the act requires the Board to approve courses, the Board cannot delegate this authority. Additionally, the scope of this rulemaking is limited to setting the course approval fee. ACNM also suggested enlarging the scope of preapproved providers. Although the Board considers this to be a valuable suggestion and will seek to implement it in other rulemakings, the scope of this rulemaking is limited to setting the course approval fee. Finally, ACNM suggested lowering the fee to an affordable amount, such as \$25, to cover the resources needed to review the course by a Board member. Because the Department of State has determined that the cost to review an application is \$100, to cover the costs of providing the service, the Board will set the fee at \$100. No amendments were made to the final-form rulemaking in response to these comments.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact and will impose no additional paperwork requirements on the Commonwealth or its political subdivisions. The final-form rulemaking will have a modest fiscal impact on members of the private sector who seek approval of CRNP continuing education courses.

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The final-form rulemaking is authorized under sections 8.1(c) and 11.2(a) and (d) of the act (63 P. S. §§ 218.1(c) and 221.2(a) and (d)).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 21, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1035, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 7, 2008, the HPLC approved the final-form rulemaking. On June 4, 2008, the SCP/PLC was deemed to have approved the final-form rulemaking. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective June 4, 2008.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Ann Steffanic, Administrator, State Board of Nursing, by mail to P. O. Box 2649, Harrisburg, PA 17105-2649, or by e-mail at st-nurse@state.pa.us.

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) (71 P. S. §§ 1201 and 1202) and 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) There are no amendments to this final-form rulemaking that would enlarge the scope of proposed rulemaking published at 37 Pa.B. 1035.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending § 21.253 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval 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) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

MARY E. BOWEN, RN, CRNP,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3461 (June 21, 2008).)

Fiscal Note: Fiscal Note 16A-5128 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

GENERAL PROVISIONS

§ 21.253. Fees.

The following fees are charged by the Board:

Certification.....	\$100
Biennial renewal of certification.....	\$50
Verification of certification.....	\$15
Application for prescriptive authority.....	\$50
Each additional collaborative agreement for prescriptive authority.....	\$30
Biennial renewal of prescriptive authority.....	\$25
Application for approval of new nursing program.....	\$735

Application for approval of CRNP continuing education course \$100

[Pa.B. Doc. No. 08-1254. Filed for public inspection July 3, 2008, 9:00 a.m.]

STATE BOARD OF PHYSICAL THERAPY
[49 PA. CODE CH. 40]
Biennial Renewal Fees

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

Effective Date

The amendment will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*. The increased fees will be effective for the renewal period beginning January 1, 2009.

Statutory Authority

Section 8(b) of the Physical Therapy Practice Act (act) (63 P. S. § 1308(b)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Board expenditures.

Background and Purpose

The Board's current biennial license renewal fees for physical therapists and physical therapist assistants were adopted at 18 Pa.B. 4952 (November 4, 1988). The Board's current biennial renewal fees for certificates to practice physical therapy without a referral were adopted at 34 Pa.B. 3700 (July 16, 2004). Under section 8(b) of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board must increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises virtually all of its revenue through biennial renewal fees.

At Board meetings in January and March, 2006, the Department of State's (Department) Offices of Revenue and Budget presented a summary of the Board's revenue and expenses for Fiscal Year (FY) 2003-2004 and FY 2004-2005, and projected revenue and expenses through FY 2012-2013. The Offices of Revenue and Budget projected a deficit of \$282,664.81 in FY 2007-2008, a deficit of \$205,664.81 in FY 2008-2009, a deficit of \$549,664.81 in FY 2009-2010, a deficit of \$485,664.81 in FY 2010-2011, a deficit of \$853,664.81 in FY 2011-2012 and a deficit of \$814,664.81 in FY 2012-2013. As a result of the projected deficits, the Offices of Revenue and Budget recommended that the Board raise fees to meet or exceed projected expenditures, in compliance with section 8(b) of the act. Therefore, based upon the expense and revenue estimates provided to the Board, the Board is amending § 40.5 to increase the fee for biennial renewal of licenses for physical therapists from \$37 to \$90, to increase the fee for biennial renewal of certificates to practice physical therapy without a referral from \$37 to \$45, and to increase the fee for biennial renewal of registrations to practice as physical therapist assistants from \$20 to \$45. The Budget Office anticipates that the proposed new biennial renewal fees will enable the Board to meet its estimated expenditures for at least 8 years.

Although the fee increases are significant, they are not surprising in that the fees for physical therapists and

physical therapist assistants have not been increased since 1988. Also, in spite of the increases, the Board's new fees will still be lower than the surrounding states. For example, the following renewal fees are charged by neighboring states: biennial renewal fee for a physical therapist in New Jersey is \$110, the biennial renewal fee for a physical therapist assistant is \$100; in New York, a physical therapist pays a triennial renewal fee of \$155 and a physical therapist assistant pays a triennial renewal fee of \$50; in Delaware, physical therapist pays a biennial renewal fee of \$90 and a physical therapist assistant pays a biennial renewal fee of \$90; physical therapist and physical therapist assistants pay a biennial renewal fee of \$120 in Ohio; in West Virginia, a physical therapist pays a biennial renewal fee of \$120 and a physical therapist assistant pays a biennial renewal fee of \$80; and in Maryland, a physical therapist pays a biennial renewal fee of \$175 and a physical therapist assistant pays a biennial renewal fee of \$150.

Summary of Comments and the Board's Response

Notice of proposed rulemaking was published at 36 Pa.B. 5982 (September 30, 2006). No public comments were received. In addition, neither the Senate Consumer Protection and Professional Licensure Committee nor the Independent Regulatory Review Commission (IRRC) commented on the proposed rulemaking as part of their review under the Regulatory Review Act (71 P. S. §§ 745.1—745.12a). The House Professional Licensure Committee (HPLC) submitted one comment to the Board.

The HPLC noted that in the proposed rulemaking, the Board stated that the increases are needed partly because there has been a marked increase in disciplinary cases and related legal expenses. The HPLC asked the Board to provide specific information as to what types of disciplinary cases these are and the Board's determination for the escalation. As noted in the proposed rulemaking, the number of disciplinary cases opened increased from 21 in FY 2002-2003 to 65 in FY 2004-2005. Additionally, there were 53 disciplinary matters opened in FY 2005-2006 and 56 opened in FY 2006-2007. The types of disciplinary cases coming before the Board tend to fall in the following categories: incompetence/malpractice/negligence; unprofessional conduct; conviction of a crime; practicing on a lapsed/suspended license; disciplinary action in another state; unlicensed practice; failure to keep adequate records; practicing outside the scope of one's license; fraud in the practice of the profession; and sexual misconduct. The Board believes one major reason for the increase in disciplinary matters is the public's increased awareness of the complaint process brought about by the Department's and the Board's presence on the Internet. Complaints can now be filed online through the Department's web site at www.dos.state.pa.us. The number of complaints filed dramatically increased with the advent of online complaints and is now averaging about 60 complaint files opened annually for this Board. Most of the other professional boards and commissions under the Bureau of Professional and Occupational Affairs have had the same experience in recent years. Each complaint must be investigated, and those with merit must be prosecuted, resulting in increases in investigative and legal costs that consume a greater portion of the revenues of the Board. The projected deficits are the result of the interplay between the dramatic increase in the number of disciplinary cases and the fact that the renewal fees for physical therapists and physical therapist assistants have not been increased since 1988. Until recently, revenues were adequate to

meet the Board's expenses. Because this is no longer the case, the Board must raise its fees in order to support its continued operations.

Fiscal Impact

The final-form rulemaking will increase the biennial renewal fee for physical therapists from \$37 to \$90, holders of a certificate to practice physical therapy without a referral from \$37 to \$45 and physical therapist assistants from \$20 to \$45. The proposed amendment should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

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

Sunset Date

The act requires that the Board monitor its revenue and costs on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 20, 2006, the Board submitted a copy of the proposed rulemaking, published at 36 Pa.B. 5982, to IRRC and to the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC, were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 14, 2008, the final-form rulemaking was approved by the HPLC. On June 4, 2008, the final-form rulemaking was deemed approved by SCP/PLC. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective June 4, 2008.

Additional Information

Interested persons may obtain information regarding the final-form rulemaking by writing to Beth Michlovitz, Counsel, State Board of Physical Therapy, P. O. Box 2649, Harrisburg, PA 17105-2649, or bmichlovit@state.pa.us.

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. S. 769, No. 240) (45 P. S. §§ 7.1 and 7.2).
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) There are no amendments to the final-form rulemaking that would enlarge the purpose of the proposed rulemaking published at 36 Pa.B. 5982.
- (4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the act.

Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 40, are amended by amending § 40.5 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 on publication in the *Pennsylvania Bulletin*.

CHARLES E. MEACCI, PT,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3461 (June 21, 2008).)

Fiscal Note: Fiscal Note 16A-6511 remains valid for the final adoption of the subject regulation.

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 through foreign training..	\$45
Verification of licensure or temporary permit	\$15
Certification of examination scores or licensure	\$25
Temporary license	\$15
Biennial renewal	\$90
Application for Certificate to Practice Physical Therapy without a referral	\$30
Biennial renewal of Certificate to Practice Physical Therapy without a referral	\$45
Application for approval of continuing education provider or program (per each course offered) ...	\$40

Athletic trainer:

Application for certification.....	\$20
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
Certification of exam scores or registration	\$25
Biennial renewal of registration	\$45
Verification of registration.....	\$15

[Pa.B. Doc. No. 08-1255. Filed for public inspection July 3, 2008, 9:00 a.m.]