

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF FUNERAL DIRECTORS

[ 49 PA. CODE CH. 13 ]

#### Renewal Fee

The State Board of Funeral Directors (Board) amends § 13.12 (relating to fees) to read as set forth in Annex A.

#### *Description and Need for the Rulemaking*

Section 18.1 of the Funeral Director Law (act) (63 P. S. § 479.18.1) requires the Board to fix the fees for renewal of licenses by regulation and if the revenue generated by fees, fines and civil penalties is not sufficient to match expenditures over a 2-year period, the Board is required to increase those fees by regulation. Section 18.1(b) of the act requires the Board to increase fees when revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures. In June, 2006, the Department of State's (Department) Division of Fiscal Management projected that, without an increase in the biennial renewal fee, Board fiscal deficits will grow as follows:

<i>Fiscal Year</i>	<i>Beginning Balance</i>	<i>Revenue</i>	<i>Expenses</i>	<i>Ending Balance</i>
2006-07	\$473,880.88	\$100,000.	\$842,000.	(\$268,119.12)
2007-08	(\$268,119.12)	\$1,260,000.	\$876,000.	\$115,880.88
2008-09	\$115,880.88	\$100,000.	\$900,000.	(\$684,119.12)
2009-10	(\$684,119.12)	\$1,260,000.	\$921,000.	(\$345,119.12)
2010-11	(\$345,119.12)	\$100,000.	\$967,000.	(\$1,212,119.12)
2011-12	(\$1,212,119.12)	\$1,260,000.	\$1,015,000.	(\$967,119.12)
2012-13	(\$967,119.12)	\$100,000.	\$1,066,000.	(\$1,933,119.12)
2013-14	(\$1,933,119.12)	\$1,260,000.	\$1,119,000.	(\$1,792,119.12)
2014-15	(\$1,792,119.12)	\$100,000.	\$1,175,000.	(\$2,867,119.12)
2015-16	(\$2,867,119.12)	\$1,260,000.	\$1,234,000.	(\$2,841,119.12)
2016-17	(\$2,841,119.12)	\$100,000.	\$1,296,000.	(\$4,037,119.12)

If, however, the renewal fee is increased to \$325 beginning with the 2008-10 renewal period, the revenue and budget offices projected that the Board would recover the deficit and maintain a surplus as follows:

<i>Fiscal Year</i>	<i>Beginning Balance</i>	<i>Revenue</i>	<i>Expenses</i>	<i>Ending Balance</i>
2006-07	\$473,880.88	\$100,000.	\$842,000.	(\$268,119.12)
2007-08	(\$268,119.12)	\$2,177,025.	\$876,000.	\$1,032,905.88
2008-09	\$1,032,905.88	\$116,000.	\$900,000.	\$248,905.88
2009-10	\$248,905.88	\$2,177,025.	\$921,000.	\$1,504,930.88
2010-11	\$1,504,930.88	\$116,000.	\$967,000.	\$653,930.88
2011-12	\$653,930.88	\$2,177,025.	\$1,015,000.	\$1,815,955.88
2012-13	\$1,815,955.88	\$116,000.	\$1,066,000.	\$865,955.88
2013-14	\$865,955.88	\$2,177,025.	\$1,119,000.	\$1,923,980.88
2014-15	\$1,923,980.88	\$116,000.	\$1,175,000.	\$864,980.88
2015-16	\$864,980.88	\$2,177,025.	\$1,234,000.	\$1,808,005.88
2016-17	\$1,808,005.88	\$116,000.	\$1,296,000.	\$628,055.88

Although the Board was presented with projections for other amounts of increase in the renewal fee, the Board concluded that increasing the biennial renewal fee to \$325 would be the least restrictive means of eliminating the projected deficits and restoring the Board's fiscal integrity as required by section 18.1 of the act.

#### *Summary of Comments and Responses to Proposed Rulemaking*

The Board published notice of proposed rulemaking at 37 Pa.B. 1868 (April 21, 2007) with a 30-day public comment period. The Board received no written comments from the public. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12).

The HPLC first noted that an increase in the biennial renewal fee to \$280 would result in a surplus of \$63,801 at the end of Fiscal Year (FY) 2010-2011 and a deficit of \$847,319 at the end of FY 2016-17 and that an increase in the biennial renewal fee to \$325 would result in a surplus for all renewal periods, with a surplus of \$628,006 at the end of FY 2016-17. The HPLC then asked whether a renewal fee between \$280 and \$325 would result in an acceptable surplus. Based upon estimates prepared in September, 2007, the Department of State's division of fiscal management estimated

that increasing the renewal fee to \$290 would result in a surplus of \$19,411 at the end of FY 2008-09, a surplus of \$194,941 at the end of FY 2010-11, a surplus of \$177,471 at the end of FY 2012-13, a deficit of \$52,999 at the end of FY 2014-15, and a deficit of \$519,469 at the end of FY year 2016-17. The division of FY management also estimated that increasing the renewal fee to \$300 would result in a surplus of \$84,981 at the end of FY 2008-09, a surplus of \$326,081 at the end of FY 2010-11, a surplus of \$374,181 at the end of FY 2012-13, a surplus of \$209,281 at the end of FY 2014-15, and a deficit of \$519,469 at the end of FY 2016-17. Renewal fee increases in either amount would support the Board's projected expenses for 7 to 9 years so long as the projected expenses and revenues remain unchanged. Because the difference between the fee at \$290 or \$300 compared to \$325 is not that significant, adopting the higher renewal fee would provide a safety net for any unanticipated expenses or decrease in revenue collected if the licensee population would decline.

The HPLC next noted that the greater increases in actual and projected expenses have occurred in the legal office and enforcement and investigation and asked for further information as to the reasons for these increases, including the number and types of enforcement activities. The increase in the actual and projected expenses for the legal office and enforcement and investigation can be attributed to three major factors. First, in FY 2004-05 a record high 490 disciplinary cases were closed for the Board. Also, 392 cases were opened, a number higher than in previous years. These increases resulted in more legal staff time being charged to the Board in that year. For comparison purposes, approximately 2,373 hours were charged to the Board in fiscal year 2003-04, and 3,329 hours were charged to the Board in 2004-05. Second, the projected expenses for fiscal year 2006-07 included approximately \$77,000 for a case that is being litigated on behalf of the Board by an outside law firm. It has now been determined that, because the outcome of this case sets a precedent for all 27 licensing boards, this expense will be allocated among all of the licensing boards. Thus, the FY year 2006-07 expenses will be reduced by approximately \$75,000 to approximately \$190,000, an amount slightly lower than the previous FY. Third, the increase in the investigation and enforcement expenses can be attributed to the acquisition of two new full-time mortuary inspector positions in FY 2005-06. The numbers of investigations and inspections have increased, as shown on the following table:

Year	Invest. Opened	Investigation Activities			New	Inspection Activities			Total
		Invest. Closed	Other Opened	Other Closed		Routine	Other		
2001-02	64	81	25	23	74	316	8	398	
2002-03	183	90	18	18	59	233	6	298	
2003-04	129	170	6	3	84	56	1	141	
2004-05	91	135	9	4	87	716	52	855	
2005-06	113	109	24	25	66	717	70	853	
2006-07	112	121	19	18	81	1,103	125	1,309	

Lastly, the HPLC asked whether the adoption of this renewal fee is planned not to necessitate another renewal fee increase for another 10 years. Increasing the renewal fee to \$325 was planned to support the Board's expenses for a period of 10 years, so long as there are not any unanticipated expenses or decrease in the Board's licensee population that would impact the amount of revenue collected.

In addition to sharing the concerns expressed by the HPLC, IRRC noted that the expenses for FY 2003-04 through 2006-07 greatly exceeded the expenses projected for those FY at the time the Board increased its renewal fee from \$130 to \$185 beginning with renewals in February, 2004. In addition to the increased number of disciplinary cases and inspections discussed previously, increased salaries and benefits, increased complement of mortuary inspectors, IT enhancements and upgrades, and other factors that led to the increased expenses were not known at the time those expenses were projected in March, 2002.

The Board has not revised its rulemaking in response to the comments.

The Board was not able to respond to comments, prepare the final rulemaking, and proceed through the regulatory review process to final approval in time to permit the increased renewal fee to apply to the biennial renewal period beginning February 1, 2008, as was anticipated in the proposed rulemaking. As a result, the Board missed collecting an additional approximately \$840,000 for the 2008-10 biennial renewal cycle. In August, 2008, the Department of State's division of fiscal management prepared budget estimates based upon increasing the renewal fee to \$325 beginning with the 2010-12 biennial renewal period. The division of fiscal management now estimates that Board will alternate between surplus and deficit as follows:

Fiscal Year	Beginning Balance	Revenue	Expenses	Ending Balance
2007-08	(\$280,021.55)	\$1,302,296.39	\$986,023.73	\$36,251.11
2008-09	\$36,251.11	\$120,000.	\$928,000.	(\$771,748.89)
2009-10	(\$771,748.89)	\$2,067,000.	\$932,000.	\$363,251.11
2010-11	\$363,251.11	\$124,000.	\$979,000.	(\$491,749.89)
2011-12	(\$491,749.89)	\$2,067,000.	\$1,028,000.	\$547,251.11
2012-13	\$547,251.11	\$124,000.	\$1,079,000.	(\$407,748.89)
2013-14	(\$407,748.89)	\$2,067,000.	\$1,133,000.	\$526,251.11
2014-15	\$526,251.11	\$124,000.	\$1,190,000.	(\$539,748.89)

<i>Fiscal Year</i>	<i>Beginning Balance</i>	<i>Revenue</i>	<i>Expenses</i>	<i>Ending Balance</i>
2015-16	(\$539,748.89)	\$2,067,000.	\$1,250,000.	\$277,251.11
2016-17	\$277,251.11	\$124,000.	\$1,313,000.	(\$911,748.89)
2017-18	(\$911,748.89)	\$2,067,000.	\$1,379,000.	(\$223,748.89)

The Board determined that, in order to avoid expanding the scope of its proposed rulemaking and due to the length of time necessary to promulgate a new rulemaking, it should proceed with the renewal fee as previously proposed. In addition, the Board will look into later increasing renewal fees with the possibility of setting separate fees for funeral entities, funeral supervisors and funeral directors, as well as planning to phase in any future increase in renewal fees.

*Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector. The final-form rulemaking will increase the biennial renewal fee for funeral directors and funeral entities in this Commonwealth.

*Effective date*

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. The increased renewal fee will first be charged for the biennial renewal period beginning February 1, 2010.

*Statutory Authority*

The final-form rulemaking is authorized under section 18.1 of the act.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 11, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1868, 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 November 17, 2008, the final-form rulemaking was approved by the HPLC. On December 17, 2008, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 18, 2008, and approved the final-form rulemaking.

*Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-3397, st-funeral@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) 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) 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 13, are amended by amending § 13.12 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*.

MICHAEL J. YEOSOCK, FD,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 104 (January 3, 2009).)*

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS LICENSURE**

**§ 13.12. Fees.**

Following is the schedule of fees charged by the Board:

Initial registration for student trainee .....	\$25
Annual registration for student trainee .....	\$15
Initial registration for resident intern .....	\$25
Initial registration for preceptor or change .....	\$25
Initial license for funeral director .....	\$25
Initial license for restricted business corporation, professional corporation, partnership or shared funeral establishment .....	\$150
Initial license for estate or widow, sole proprietorship or branch office .....	\$125
Initial registration for supervisor .....	\$25
Change director or name on existing license without reinspection .....	\$35
Address change with inspection .....	\$125

Reinspection after failure ..... \$85  
 Certification ..... \$25  
 Verification of licensure or registration ..... \$15  
 Biennial renewal ..... \$325  
 Application for limited license ..... \$35  
 Biennial renewal of limited license ..... \$35  
 Application for continuing education course..... \$100  
 Application for continuing education provider .... \$100  
 Renewal of registration of continuing education  
 provider ..... \$50  
 [Pa.B. Doc. No. 09-111. Filed for public inspection January 23, 2009, 9:00 a.m.]

**STATE BOARD OF SOCIAL WORKERS, MARRIAGE  
 AND FAMILY THERAPISTS AND PROFESSIONAL  
 COUNSELORS**

**[ 49 PA. CODE CH. 47 ]**

**Corrective Amendment to 49 Pa. Code § 47.4(a)**

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) has discovered a discrepancy between the agency text of 49 Pa. Code § 47.4(a) (relating to licensure fees), as deposited with the Legislative Reference Bureau, and the official text published at 38 Pa.B. 4509 (August 16, 2008) and the official text which was codified in the October 2008 *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 407). The fee change was codified incorrectly.

Therefore, under 45 Pa.C.S. § 901: The Board has deposited with the Legislative Reference Bureau a corrective amendment to 49 Pa. Code § 47.4(a). The corrective amendment to 49 Pa. Code § 47.4(a) is effective as of

October 4, 2008, the date the defective text was announced in the *Pennsylvania Bulletin*.

The correct version of 49 Pa. Code § 47.4(a) appears in Annex A, with ellipses referring to the existing text of the regulation.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL  
 STANDARDS**

**PART I. DEPARTMENT OF STATE**

**CHAPTER 47. STATE BOARD OF SOCIAL  
 WORKERS, MARRIAGE AND FAMILY THERAPISTS  
 AND PROFESSIONAL COUNSELORS**

**GENERAL PROVISIONS**

**§ 47.4. Licensure fees.**

(a) The fee schedule for licensure as a licensed social worker, provisional license, licensed clinical social worker, licensed marriage and family therapist or licensed professional counselor shall be as follows:

- (1) Application fee for licensure and original license issuance as a licensed social worker \$25
- (2) Biennial renewal for a licensed social worker, clinical social worker, marriage and family therapist or professional counselor \$75
- (3) Application fee for provisional license and provisional license issuance \$25
- (4) Verification of licensure \$15
- (5) Certification of license, scores or hours \$25
- (6) Application fee for licensure and original license issuance as a clinical social worker, marriage and family therapist or professional counselor \$45

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[Pa.B. Doc. No. 09-112. Filed for public inspection January 23, 2009, 9:00 a.m.]