

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF OSTEOPATHIC MEDICINE [49 PA. CODE CH. 25]

Reduction of Biennial Renewal Fee for Osteopathic Physicians

The State Board of Osteopathic Medicine (Board) hereby amends § 25.231 (relating to schedule of fees) to read as set forth in Annex A. This rulemaking decreases the biennial license renewal fee for an osteopathic physician from \$440 to \$220.

Effective Date

The amendment will be effective upon final-form publication in the *Pennsylvania Bulletin*. The new reduced biennial renewal fee will take effect for the biennial renewal period commencing November 1, 2010.

Statutory Authority

Section 13.1(a) of the Osteopathic Medical Practice Act (act) (63 P. S. § 271.13a(a)) requires the Board to fix all fees by regulation. The Board is to set its fees so that projected revenues will meet or exceed projected expenditures.

Omission of Proposed Rulemaking

Under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law (CDL) (45 P. S. § 1204), the Board may omit the procedures for proposed rulemaking in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) if the Board for good cause finds that the specified procedures are impracticable, unnecessary or contrary to the public interest. The Board finds for good cause that publication of this rulemaking as proposed is unnecessary. As discussed in the following paragraphs, the increase in Board expenditures was not as great as anticipated when the Board previously increased the renewal fee, resulting in a significant surplus. The amendment will reconcile the Board's revenue with its expenditures while maintaining the fiscal integrity of the Board. Because the reduction in renewal fee will only beneficially affect the regulated community, there is no need for the public to comment. Accordingly, the Board adopts this amendment without prior notice of proposed rulemaking. Comments on the amendment may, however, be submitted within 30 days of publication to the contact person for the Board.

Background and Need for Amendment

In 2002, the Board increased its biennial renewal fees for osteopathic physicians significantly, from \$140 to \$440, as a proactive measure to be able to respond to the anticipated increase in complaints filed against physicians under the newly enacted Medical Care Availability and Reduction of Error Act (MCARE Act) (40 P. S. §§ 1303.101—1303.910). See 32 Pa.B. 3220 (July 6, 2002). At the time, the Board expected its expenses to nearly double as a result of the increases in cases filed against

physicians under the mandatory reporting requirements of the MCARE Act, and projected that Board expenses would increase from \$632,000 in Fiscal Year (FY) 2001-2002 to \$1,171,605 in FY 2002-2003. It is now apparent that those projections were over-estimated. The number of cases opened has increased fairly significantly since the passage of the MCARE Act from 232 in FY 2000-2001 to 644 in FY 2008-2009, and costs have also increased during that time period from \$560,818.70 in FY 2000-2001 to an estimated \$1,349,000 in FY 2008-2009. However, the increase was much more gradual than expected, and the increased fee imposed beginning in November of 2002 has resulted in a significant surplus, currently estimated at \$6,484,575.93. Therefore, at its meeting on January 14, 2009, the Bureau of Finance and Revenue (BFO) presented the Board with several options for reducing the surplus in its accounts, including a one-time fee reduction, a one-time waiver of the biennial renewal fee, or a "permanent" fee reduction. The Board voted at its meeting on February 11, 2009, to reduce its biennial renewal fee by half from \$440 to \$220, beginning with the November 1, 2010—October 31, 2012, renewal period. At this level, BFO projects that the Board will have adequate revenue to meet its projected expenditures for a number of years before it would need to consider an increase.

Description of Amendment

The Board amends § 25.231 to decrease the biennial renewal fee for osteopathic physicians from \$440 to \$220.

Fiscal Impact

The amendment decreases the biennial renewal fee for osteopathic physicians. The rulemaking will have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

Although the rulemaking requires the Board to alter some of its forms to reflect the new biennial renewal fee, the rulemaking will not create additional paperwork for the private sector.

Sunset Date

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

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on January 14, 2010, the Board submitted copies of the final rulemaking, with proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC). On the same date, the Board submitted a copy of the amendment to the Office of Attorney General under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, the final rulemaking was approved by the HPLC on January 25, 2010, and deemed approved by the SCP/PLC on February 24, 2010. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 25, 2010, and approved the final-form rulemaking.

Additional Information

For additional information about the final-form rule-making or to comment, interested parties may contact Steven R. Dade, Counsel, State Board of Osteopathic Medicine by mail at P. O. Box 2649, Harrisburg, PA 17105-2649 or by telephone at (717) 783-7200.

Findings

The Board finds that:

(1) Public notice of the Board's intention to amend its regulations under the procedures in sections 201 and 202 of the CDL has been omitted under the authority of section 204 of the CDL, because public comment is unnecessary in that no person is adversely affected by the reduction in the biennial renewal fee and the Board, by simply reconciling its expenditures and revenue, will maintain its fiscal integrity.

(2) The amendment of the Board's regulation in the manner provided in 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 25, are amended by amending § 25.231 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 the Office of Attorney General for approval as to form and legality 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.

JOSEPH C. GALLAGHER, Jr., DO,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 1471 (March 13, 2010).)

Fiscal Note: Fiscal Note 16A-5322 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 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:

Table with 2 columns: Description of fee and Amount. Includes items like 'Application for unrestricted license to practice as osteopathic physician', 'Application for short-term camp license as osteopathic physician', 'Temporary training license or graduate training certificate', etc.

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