

Comments of the Independent Regulatory Review Commission



State Board of Chiropractic Regulation #16A-4335 (IRRC #3378)

Fees

October 5, 2023

We submit for your consideration the following comments on the proposed rulemaking published in the August 5, 2023 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the State Board of Chiropractic (Board) to respond to all comments received from us or any other source.

1. Compliance with the provisions of the RRA and the regulations of IRRC.

Section 5.2 of the RRA (71 P.S. § 745.5b) directs IRRC to determine whether a regulation is in the public interest. When making this determination, IRRC considers criteria such as economic or fiscal impact and reasonableness. To make that determination, IRRC must analyze the text of the proposed regulation and the reasons for the new or amended language. IRRC also considers the information a promulgating agency is required to provide under Section 5 of the RRA in the Regulatory Analysis Form (RAF) (71 P.S. § 745.5(a)).

RAF question #21 asks the agency to provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation and to explain how the dollar estimates were derived. The Board states in its response that it will incur a minimal cost to revise its online application forms and online biennial registration platform to indicate the increased fees. However, the Board does not provide a dollar estimate for this cost to implement the regulation. We ask the Board to provide with the final regulation an updated RAF that includes a specific cost estimate to state government associated with implementation of the regulation.

2. Section 5.6. Fees. – Reasonableness.

In this section, the Board proposes to increase application fees to reflect the updated costs of processing applications and to increase the Board's biennial registration fees to ensure that its revenue meets or exceeds its current and projected expenses, as required under Section 1101(b) of the Chiropractic Practice Act (63 P.S. § 625.1101(b)).

The Pennsylvania Chiropractic Association (PCA) and the American Chiropractic Association (ACA) each commented on the proposed fees relating to continuing education course approval,

asking the Board to consider alternative means of addressing the budgetary gap. PCA suggests that “the fee increase be reflected in a tiered manner specific to ‘per credit’ ranges as opposed to per course,” and offers suggested fees that it asserts are “proportional to cost absorption.” The ACA asserts that the proposed fee increases make delivery of affordable, quality, and approved continuing education credits “a cost-prohibitive undertaking without enhancing the standards of quality” and asks the Board to consider the successful models delivered by several other state licensing boards.

ACA also notes that several states “take one step further in defining the [continuing education] providers who are pre-approved” and asserts that “this model has the potential to minimize the number of applications that must be processed” by the Board, thereby decreasing both direct and indirect costs.

We ask the Board to address these alternatives to the proposed fee schedules in the Preamble and RAF of the final regulation, and to explain why the fees in the final regulation are reasonable.