

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and Occupational
Affairs, State Board of Cosmetology

(2) I.D. Number (Governor's Office Use)

16A-4510

IRRC Number:

2223

(3) Short Title

Deletion of Examination Fees

(4) PA Code Cite

49 Pa.Code § 7.2

(5) Agency Contacts & Telephone Numbers

Primary Contact: Deborah B. Eskin, Counsel
State Board of Cosmetology (717) 783-7200
Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

- ☒ Proposed Rulemaking
☐ Final Order Adopting Regulation
☐ Final Order, Proposed Rulemaking
☐ Omitted

(7) Is a 120-Day Emergency Certification Attached?

- ☒ No
☐ Yes: By the Attorney General
☐ Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The proposed regulation eliminates references to the amount paid by applicants to take the theory and performance examinations, and the amount paid by managers to take the theory examination. The fees for these examinations are set by the testing organization and not by the Board.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The proposed amendment is authorized by Section 16 of the Beauty Culture Law (Law), Act of May 3, 1933, P.L. 242, as amended, 63 P.S. § 522, which provides the authority to establish fees, and Section 13(b) of the Law, 63 P.S. § 519(b), which requires the Board to contract with a professional testing organization for the preparation and administration of examinations. Section 11 of the Law, 63 P.S. § 517, requires the Board to prescribe regulations for the examination of applicants.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by any federal or state law or court order.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Examination fees are determined through a competitive bid and contracting process with a professional testing organization that administers the examinations. Eliminating references to the current examination fee in the regulations will obviate the need to amend the regulations in the future should the examination fees be changed.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no specific public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Applicants for licensure will benefit by not having potentially conflicting sources of information relating to examination fees. The Board will benefit because the regulation will eliminate the need to make future adjustments to its regulations should the fees be changed.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Board has identified no groups or individuals who will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All applicants for the theory and performance examinations and manager applicants for the theory examination are required to pay the fee set by the testing organization. This regulation does not affect the fee charged by the testing organization.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The text of the proposed regulation was sent to cosmetology organizations for pre-draft commentary on February 23, 2001. One comment was received during the 30 day comment period from the Pennsylvania Cosmetology Association (PCA). The PCA supported the deletion of the examination fees.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

No specific costs or savings to the regulated community are anticipated. However, the general operational costs of the Board may be reduced by eliminating the need to make future amendments to the Board's regulations.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no anticipated costs or savings to local government associated with this regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Because the Board's operational expenses are paid from license renewal fees, there are no anticipated costs or savings to state government associated with this regulation.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY +1	FY +2	FY +3	FY +4	FY -5
SAVINGS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

N/A

Program	FY -3	FY -2	FY -1	Current FY
N/A	N/A	N/A	N/A	N/A

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

There are no adverse effects or costs associated with the regulation. The regulated community will benefit by not having potentially conflicting sources of information relating to exam fees. The Board will benefit by not being required to make any future amendments to its regulations to conform to changing costs of the licensing examinations.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Because the fees are currently announced in the Board's regulations, no nonregulatory alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The Board considered waiting until the examination fees were changed to make this change to its regulation, but determined that the change should be made before any change in fees to eliminate potential confusion applicants may experience if the testing organization advertised a fee different than the fee listed in the regulation.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal standards relevant to the regulation.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The examinations required for Pennsylvania licensure are a theory and practical examination. The regulation should not produce a competitive disadvantage for Pennsylvania licensees. Maryland requires a theory and practical examination and charges a fee of \$68.00 for both. The fees are set by regulation. Ohio charges \$21.00 for both the theory and practical examination (even though the cost is \$60.00). The \$21.00 fee is set by statute, but can be changed at two year intervals during the budget process. Delaware has a situation similar to Pennsylvania's in that the fees for the practical and theory examinations are determined through the contracting process with the testing organization. Fees were removed from the regulations to avoid regulatory amendments each time that the contracting process resulted in different fees.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not affect any existing or proposed regulations of the Board or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board meets in public session at least 12 times per year in Board Room A, 124 Pine Street, Harrisburg, PA. Comments from the public are always invited at the Board's meetings. The proposed meeting dates for 2001 are as follows: January 8, 2001, February 5, 2001, March 5, 2001, April 2, 2001, May 7, 2001, June 4, 2001, July 9, 2001, August 6, 2001, September 10, 2001, October 1, 2001, November 5, 2001, and December 3, 2001.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The regulation will not change any existing reporting, record keeping or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board has identified no particular groups or persons who will be affected by the regulation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The Board continuously reviews its regulations.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated by:

Copy below is approved as
to form and legality.
Executive or Independent

Agencies.

Cristina L. Caputo
(DEPUTY ATTORNEY GENERAL)

State Board of Cosmetology
(AGENCY)

BY *John V. Turner*

SEP 13 2001

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-4510

DATE OF ADOPTION:

BY: *Carol M. Thompson*
Carol M. Thompson

DATE OF APPROVAL

8/23/01

(Deputy General Counsel
(Chief Counsel,
Independent Agency
(Strike inapplicable
title)

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if
applicable. No Attorney
General approval or
objection within 30 day
after submission.

NOTICE OF PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF COSMETOLOGY
49 Pa. Code, Chapter 7

Deletion of Examination Fees

The State Board of Cosmetology (Board) proposes to amend 49 Pa.Code § 7.2 (relating to fees) as set forth in Annex A. The proposed rulemaking deletes references to the fees charged by testing organizations from the schedule of fees for the theory and performance examination for cosmetologists, cosmeticians, manicurists and teachers, and theory examination for managers.

A. Effective Date

The regulation is effective on final publication in the Pennsylvania Bulletin.

B. Statutory Authority

Section 12 of the Beauty Culture Law (Law), Act of May 3, 1933, P.L. 242, as amended, 63 P.S. § 522, prescribes the time place and materials for examinations for licensure. Section 13(b), 63 P.S. §519(b), requires the Bureau of Professional and Occupational Affairs to contract with a professional testing organization to prepare and administer examinations in accordance with section 812.1(a) of the Administrative Code of 1929, 71 P.S. §279.3(a). Under Section 812.1(b) each board has the discretionary power to charge a fee for the administration of and cost of each examination. Section 812.1(c) defines cost as "all contractual charges relating to the preparation, administration, preparing, administering, grading and recording of the examination."

C. Background and Need for Amendment

Provision and Submission of Applications

The proposed amendment to Section 7.2 Fees., reflects that the professional testing organization, not the Board, determines the fees charged for the examinations. The proposed amendment deletes references to the cost of the examinations in the Board's schedule of fees.

Elimination of References to Examination Fees

The proposed amendment to Section 7.2 of the regulations, the schedule of fees, deletes references to the fees for the theory and performance examination for cosmetologists, cosmeticians, manicurists and teachers, and theory examination for managers. These fees are set by the administrators of the examinations, not by the Board. To avoid the necessity of amending the regulations whenever the examination administrator changes the fees, the Board proposes to delete references to the fees.

D. Description of Proposed Amendments

The proposed rulemaking deletes references to the fees for the theory and performance examination for cosmetologists, cosmeticians, manicurists and teachers and theory examination for managers. The fees are set by the professional testing organizations.

E. 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. The regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

F. Fiscal Impact and Paperwork Requirements

The proposed amendment will have no fiscal impact on the Board or its licensees. The proposed amendment should have no fiscal impact on the private sector, the general public or political subdivisions. The amendment will avoid preparation of new regulations each time that an examination fee is changed and should not create additional paperwork for the private sector.

G. Sunset Date

The Board monitors its regulations on a continuing basis. Therefore, no sunset date has been assigned.

H. Regulatory Review

Pursuant to Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73), as amended, 71 P.S. § 745.5(a), the Board submitted a copy of this proposed regulation on September 27, 2001 to the Independent Regulatory Review Commission and the Chairpersons of the House Professional Licensure Committee and Senate Consumer Protection and Professional Licensure Committee for review and comment. In addition to submitting the proposed regulation, the Board has provided the Commission and the Committees with a copy of a detailed Regulatory

Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If the Commission has any objections to any portion of the proposed regulation, it will notify the Board within ten days after the expiration of the Committees' review period. Such notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final-form publication of the regulation, by the Board, the General Assembly and the Governor of objections raised.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Sara Sulpizio, Administrator, State Board of Cosmetology, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS PART I. DEPARTMENT OF STATE Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS CHAPTER 7. STATE BOARD OF COSMETOLOGY

GENERAL PROVISIONS

§7.2. Fees.

[(a) The fee for the cosmetologist, cosmetician, manicurist or teacher examination is \$59. The fee for the manager theory examination is \$31. The fee for each portion of an examination is:

Theory examination ...	\$31
Performance examination (not applicable to managers) ...	\$28

(b) Effective September 1, 1999, the fee for the complete cosmetologist, cosmetician, manicurist or teacher examination is \$71. The fee for the manager theory examination is \$31. The fee for each portion of an examination is:

Theory examination ...	\$41
Performance examination (not applicable to managers) ...	\$30

(c) Other f] Fees charged by the Board:

Licensure of cosmetologist, manicurist or cosmetician...	\$5
Licensure of cosmetology shop manager or cosmetology teacher...	\$10
Licensure of cosmetology shop, manicurist shop or cosmetician shop...	\$35
Licensure of cosmetology school...	\$95
Licensure by reciprocity...	\$25
Registration of cosmetology apprentice...	\$35
Biennial renewal of manicurist's license...	\$21
Biennial renewal of cosmetician's license...	\$21
Biennial renewal of cosmetologist's license...	\$23
Biennial renewal of cosmetology shop manager's or cosmetology teacher's license...	\$36
Biennial renewal of cosmetology shop's license...	\$41
Biennial renewal of cosmetician or manicurist shop's license...	\$25
Biennial renewal of cosmetology school's license...	\$66
Approval of cosmetology school supervisor...	\$10
Change in cosmetology shop (inspection required)...	\$35
Change in cosmetology shop (no inspection required)...	\$15
Reinspection of cosmetology shop...	\$15
Certification of licensure...	\$10



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCUCPATIONAL AFFAIRS
STATE BOARD OF COSMETOLOGY

(717) 783-7130

116 PINE STREET
P. O. BOX 2649
HARRISBURG, PA 17105-2649

September 27, 2001

The Honorable John R. McGinley, Chairman
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17120

RE: Proposed Regulation
State Board of Cosmetology
Deletion of Examination Fees (16A-4510)

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Cosmetology pertaining to deletion of examination fees.

The Board will be pleased to provide whatever information your Committee may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Carol M. Thompson".

Carol M. Thompson, Chairperson
State Board of Cosmetology

CMT:DBE:apm

Enclosures

c: John T. Henderson, Jr., Chief Counsel
Department of State
Albert H. Masland, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Christal Pike-Nase, Regulatory Counsel
Herbert Abramson, Senior Counsel in Charge
Bureau of Professional and Occupational Affairs
Deborah B. Eskin, Counsel
State Board of Cosmetology
State Board of Cosmetology

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-4510

SUBJECT: State Board of Cosmetology - Deletion of Examination Fees

AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

X Proposed Regulation

Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

9-27-01

Lou A. Clark

HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

9/27/01

Bonnie Weaver

SENATE COMMITTEE ON CONSUMER PROTECTION &
PROFESSIONAL LICENSURE

9/27/01

St. Helmut

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL

9/27/01

Maya Garas

LEGISLATIVE REFERENCE BUREAU

September 18, 2001