

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		<p style="margin: 0;">This space for use by IRRC</p> <div style="text-align: center;"> RECEIVED 2003 NOV 12 PM 12:01 INDEPENDENT REGULATORY REVIEW COMMISSION </div>
<p>(1) Agency</p> <p>Department of State, Bureau of Professional and Occupational Affairs, State Board of Cosmetology</p>		<p>IRRC Number: <u>2223</u></p>
<p>(2) I.D. Number (Governor's Office Use)</p> <p>16A-4510</p>		
<p>(3) Short Title</p> <p>Deletion of Examination Fees</p>		
<p>(4) PA Code Cite</p> <p>49 Pa.Code § 7.2; 7.31; 7.32a and 7.32g</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>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</p>	
<p>(6) Type of Rulemaking (check one)</p> <p><input type="checkbox"/> Proposed Rulemaking</p> <p><input checked="" type="checkbox"/> Final Order Adopting Regulation</p> <p><input type="checkbox"/> Final Order, Proposed Rulemaking</p> <p><input type="checkbox"/> Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The regulation eliminates references to the amount paid by applicants to take the theory and performance examinations. The fees for these examinations are set by the testing organization and not by the Board.</p>		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>The amendment is authorized by Section 16 of the Beauty Culture Law (law) (63 P.S. § 518), 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.</p>		

Regulatory Analysis Form

(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 examination fees deletion 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.

Regulatory Analysis Form

(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 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 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.

Regulatory Analysis Form

(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.

Regulatory Analysis Form

(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

Regulatory Analysis Form

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

Program	FY -00-01	FY -01-02	Projected FY-02-03	Budget FY -03-04
State Board of Cosmetology	\$2,347,207.05	\$1,866,149.35	\$2,201,481.16	\$2,533,000.00

(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 and manager licenses. 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.

Regulatory Analysis Form

(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 reviews regulations at regularly scheduled monthly public meetings. The meeting dates are listed on the Department of State website at www.dos.state.pa.us/bpoa. However, the Board has not scheduled public hearings or informational meetings regarding this regulation.

Regulatory Analysis Form
<p>(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.</p> <p>The regulation will not change any existing reporting, record keeping or other paperwork requirements.</p>
<p>(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.</p> <p>The Board has identified no particular groups or persons who will be affected by the deletion of the exam fees.</p>
<p>(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?</p> <p>The regulation will be effective upon final publication in the <u>Pennsylvania Bulletin</u>.</p>
<p>(31) Provide the schedule for continual review of the regulation.</p> <p>The Board continuously reviews its regulations.</p>

methods certified and approved by the actuary.] This formula for purchase does not apply in the case of purchase of creditable nonschool service rendered to a county board of school directors. In this event, the member shall only pay the amount due based on the member's basic contribution rate exclusive of the normal contribution rate.

* * * * *

§ 213.25. Incomplete payments.

* * * * *

[(c) *Payments under certain conditions.* If a member agrees to make payments for purchase of certain service, as provided in sections 8323 and 8324 of the Retirement Code (relating to member contributions for creditable school service; and contributions for purchase of credit for creditable nonschool service), and dies in school service, or terminates school service before any payments are made, the request for purchase of the service shall be canceled, unless payment is made in a lump sum payment, within 30 days after the event, by the member or anyone acting on his behalf.]

[(d)] (c) * * *

[(e)] (d) * * *

[Pa.B. Doc. No. 01-1836. Filed for public inspection October 12, 2001, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

[49 PA. CODE CH. 7] Examination Fees

The State Board of Cosmetology (Board) proposes to amend § 7.2 (relating to fees) to read 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

This proposed rulemaking is effective on final publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 12 of the Beauty Culture Law (law) (63 P.S. § 522) prescribes the time place and materials for examinations for licensure. Section 13(b) of the law (63 P.S. § 519(b)) requires the Bureau of Professional and Occupational Affairs (Bureau) 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) of The Administrative Code of 1929 each board has the discretionary power to charge a fee for the administration of and cost of each examination. Section 812.1(c) of The Administrative Code of 1929 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 § 7.2 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 § 7.2 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 proposed rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1. The proposed rulemaking 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 rulemaking will have no fiscal impact on the Board or its licensees. The proposed rulemaking 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 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

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 27, 2001, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) 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 rulemaking, the Board has provided IRRC 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 IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days after the expiration of the Committees' review period. The 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, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

CAROL M. THOMPSON,
Chairperson

Fiscal Note: 16A-4510. No fiscal impact; (8) recommends adoption.

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 fees] Fees charged by the Board are as follows:

Licensure of cosmetologist, manicurist or cosmetician	\$10
Licensure of cosmetology shop manager or cosmetology teacher	\$10
Licensure of cosmetology shop, manicurist shop or cosmetician shop	\$55
Licensure of cosmetology school	\$160
Licensure by reciprocity	\$20
Registration of cosmetology apprentice	\$70
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	\$20
Change in cosmetology, cosmetician or manicurist shop (inspection required)	\$55
Change in cosmetology, cosmetician or manicurist shop (no inspection required)	\$15
Reinspection of cosmetology, cosmetician or manicurist shop or cosmetology school	\$40
Certification of student or apprentice training hours	\$30
Verification of license, registration, permit or approval	\$15

[Pa.B. Doc. No. 01-1837. Filed for public inspection October 12, 2001, 9:00 a.m.]

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Application Fees

The State Board of Dentistry (Board) proposes to amend § 33.3 (relating to fees) by revising certain application fees to read as set forth in Annex A.

A. Effective Date

The amendment will be effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

B. Statutory Authority

The proposed amendment is authorized under section 4(b) of the Dental Law (law) (63 P. S. § 123(b)).

C. Background and Purpose

The law requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses of the Board for services that are provided directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee.

In a recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs (Bureau), the fees for services to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

$$\begin{array}{l} \text{Number of minutes to perform the function} \\ \times \\ \text{Pay rate for the classification of personnel performing the function} \\ + \\ \text{A proportionate share of administrative overhead} \end{array}$$

The analysis, with regard to the Board, determined that there are currently no fees for two services, which do not support the actual cost of providing those services: application for dental radiology authorization and notification application—postgraduate training or faculty member.

JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
ARTHUR COCCODRILLI
ROBERT J. HARBISON, III
JOHN F. MIZNER, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



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irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>

INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

December 13, 2001

Carol M. Thompson, Chairperson
State Board of Cosmetology
116 Pine Street
Harrisburg, PA 17105

Re: Regulation #16A-4510 (IRRC #2223)
State Board of Cosmetology
Examination Fees

Dear Chairperson Thompson:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director
wbg
Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Clarence D. Bell, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Kim Pizzigrilli, Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Cosmetology Regulation No. 16A-4510

Examination Fees

December 13, 2001

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The State Board of Cosmetology must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by November 13, 2003, the regulation will be deemed withdrawn.

Remaining language in Chapter 7 - Consistency with other regulations; Clarity.

The Board is proposing to delete examination fees in Sections 7.2(a) and (b). However, there is existing language in Chapter 7, which refers to those fees and examinations given by the Board. These existing provisions are discussed in the following paragraphs.

First, Section 7.32a lists the required contents of examination applications. Sections 7.32a(a)(3) and (b) require applications to include the examination fees prescribed by Section 7.2. Will applicants continue to submit examination fees to the Board?

Second, Section 7.32g(a) requires payment of the "examination and license fees prescribed in § 7.2." This subsection and the two subsections, discussed above, need to be consistent with the Board's proposal to provide clarity for readers of Chapter 7. The Board should delete references to examination fees in Section 7.2 from Sections 7.32a(a)(3) and (b) and 7.32g(a) and Chapter 7 in its entirety.

Third, language in Section 7.31(a) states that individuals who want a teacher's, manager's, cosmetologist's, cosmetician's or manicurist's license must "pass the examination given by the Board for that license" (emphasis added). The Beauty Culture Law authorizes the Board to select and approve the examinations that applicants must pass for licensure. However, this proposed regulation acknowledges that the professional testing organization gives the examinations and charges the fees for this service. Should the words "pass the examination given by the Board for that license" be replaced with "pass the examination required by the Board for that license"?

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

(Pursuant to Commonwealth Documents Law)

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2003 NOV 12 PM 12:01

INDEPENDENT
REVIEW COMMISSION

2223

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Copy below is hereby approved as to
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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.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Cosmetology
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-4510

DATE OF ADOPTION _____

BY: Franklin K. Schweneman

DATE OF APPROVAL _____

DATE OF APPROVAL 10/31/03

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

TITLE: Chairman
(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.

FINAL 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) hereby amends §§ 7.2, 7.31, 7.32a, and 7.32g to read as set forth in Annex A.

A. Effective Date

The amendment is effective on publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 11 of the Beauty Culture Law (law) (63 P.S. §517) authorizes the Board to promulgate regulations for “the examination and licensing of applicants to practice or teach cosmetology...and generally for the conduct of persons, copartnerships, associations or corporations” affected by the law.

Section 12 of the law (63 P.S. §518) prescribes the time, place and materials for examinations for licensure. Section 13(b) of the law (63 P.S. §519(b)) requires the Bureau of Professional and Occupational Affairs (Bureau) 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. §279.3a (a)). Under section 812.1(b) of the Administrative Code of 1929 each board has the discretionary power to charge a fee for the administration of and cost of each examination. Section 812.1(c) of the Administrative Code of 1929 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

The proposed amendment 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 is deleting the examination fees from its schedule of fees. In addition, references to the examination fees contained in other sections were amended to clarify that applicants are still required to submit the examination fees set by the professional testing organization with their applications.

D. Description of Amendments

Section 7.2 (relating to fees) has been amended to delete 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 professional testing organizations.

Section 7.31 (relating to examination prerequisite for licensure; exception) has been amended to clarify that applicants are required to pass the examination required by the Board, rather than given by the Board. The Board contracts with a professional testing organization to give the various licensure examinations.

Sections 7.32a and 7.32g (relating to contents of examination application; and issuance of temporary licenses to qualified examination applicants) were amended to make it clear that the applications are to be accompanied by the examination fee set by the professional testing organization.

E. Comment and Regulatory Review of Proposed Rulemaking

Publication of proposed rulemaking at 31 Pa. B. 5713 (October 13, 2001) was followed by a 30-day public comment period during which the Board received no public comments. One public comment supporting the proposal was received during the pre-draft period.

Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) or the House Professional Licensure Committee (HPLC).

The following are the Board's responses to the comments submitted by IRRC:

1. IRRC pointed out that Section 7.32a requires applications to include the examination fees prescribed by § 7.2. In response to IRRC's comment, the Board has amended this section to eliminate the cross reference to the examination fees in § 7.2 and to require the application to include the examination fee set by the professional testing organization. Applicants will continue to submit the examination fees to the Board with their applications.
2. Section 7.32g(a) requires payment of the examination and license fees prescribed in § 7.2. This section has been amended to eliminate the cross reference to the examination fees in § 7.2 and to clarify that the applicant needs to pay the examination fee set by the professional testing organization. IRRC suggested that the Board delete the references to examination fees throughout the entire chapter; however, the Board believes it is necessary to clarify through regulation that satisfaction of the examination fee is still required before a license may be issued.
3. IRRC also noted that Section 7.31(a) requires applicants to "pass the examination given by the Board for that license". IRRC suggested that, as the professional testing organization gives the examination and charges the fees for that service, that the regulation should be rewritten to read "...shall pass the examination required by the Board for that license". The Board agrees and has amended the regulation as suggested.

F. 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.

G. Fiscal Impact and Paperwork Requirements

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

H. Sunset Date

The Board continuously monitors the cost effectiveness of its regulation. Therefore, no sunset date has been assigned.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted copies of the notice of proposed rulemaking, published at 31 Pa.B.5713 (October 13, 2001) to IRRC, SCP/PLC and HPLC for review and comment.

In preparing the final-form regulation, the Board has considered any comments received from IRRC, SCP/PLC, HPLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(d)), this final-form regulation was deemed approved by the HPLC and the SCP/PLC on _____. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), this final-form regulation was deemed approved by IRRC on _____.

J. Contact Person

Further information may be obtained by contacting Sara Sulpizio, Board Administrator, State Board of Cosmetology, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 (ssulpizio@state.pa.us).

K. Findings

The State Board of Cosmetology finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202) and the 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) This amendment does not enlarge the purpose of proposed rulemaking published at 31 Pa. B. 5713.
- (4) This amendment is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

L. Order

The State Board of Cosmetology, acting under its authorizing statutes, orders that:

- (a) The regulations of the Board at 49 Pa. Code §§ 7.2, 7.31, 7.32a and 7.32g are amended 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*.

Franklin K. Schoeneman,
Chairman

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 fees] Fees charged by the Board are as follows:

Licensure of cosmetologist, manicurist or cosmetician..... \$10

Licensure of cosmetology shop manager or cosmetology teacher..... \$10

Licensure of cosmetology shop, manicurist shop or cosmetician shop..... \$55

Licensure of cosmetology school..... \$160

Licensure by reciprocity..... \$20

Registration of cosmetology apprentice.....	\$70
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.....	\$20
Change in cosmetology, cosmetician or manicurist shop (inspection required).....	\$55
Change in cosmetology, cosmetician or manicurist shop (no inspection required).....	\$15
Reinspection of cosmetology, cosmetician or manicurist shop or cosmetology school.....	\$40
Certification of student or apprentice training hours.....	\$30
Verification of license, registration, permit or approval.....	\$15

EXAMINATIONS

§ 7.31. Examination prerequisite for licensure; exception.

(a) Except as provided in subsection (b), an individual who wants to obtain a teacher's, manager's, cosmetologist's cosmetician's or manicurist's license listed in §§ 7.12-7.15 shall pass the examination ~~given~~ REQUIRED by the Board for that license.

§ 7.32a. Contents of examination application.

- (a) The application of a first-time examinee shall include the following:

(3) The examination FEE SET BY THE PROFESSIONAL TESTING ORGANIZATION and THE license fees FEE prescribed in § 7.2 (relating to fees).

- (b) The application of a reexaminee shall be accompanied by the prescribed examination fee SET BY THE PROFESSIONAL TESTING ORGANIZATION.

§ 7.32g. Issuance of temporary licenses to qualified examination applicants.

- (a) A temporary license may be issued to an applicant who is eligible for admission to the cosmetologist's or manicurist's examination and who pays the examination FEE SET BY THE PROFESSIONAL TESTING ORGANIZATION and THE license fees FEE prescribed in § 7.2 (relating to fees). The purpose of a temporary license is to allow an otherwise qualified applicant to practice pending the applicant's scoring a passing grade on the examination.



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

(717) 783-7130

P. O. BOX 2649
HARRISBURG, PA 17105-2649

November 12, 2003

The Honorable John R. McGinley, Chairman
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

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

Dear Chairman McGinley:

Enclosed is a copy of a final regulation of the State Board of Cosmetology pertaining to deletion of examination fees.

This regulation package was first submitted to the Committees and the Independent Regulatory Review Commission on September 27, 2001. The proposed regulations were published in the Pennsylvania Bulletin on October 13, 2001, 31 Pa. B. 5713.

The State Board of Cosmetology, as always, will be pleased to provide whatever information the Commission may require during the course of its review of this regulation.

Sincerely,

Franklin K. Schoeneman, Chairman
State Board of Cosmetology

FKS:DBE:apm
Enclosures

c: Andrew Sislo, Chief Counsel
Department of State
Scott J. Messing, Deputy Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Review Counsel
Herbert Abramson, Senior Counsel in Charge
Legal Office, Counsel Division
Deborah B. Eskin, Counsel, State Board of Cosmetology
State Board of Cosmetology

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 16A-4510

2003 NOV 12 PM 12: 01

SUBJECT: Deletion of Examination Fees

INDEPENDENT REGULATORY
REVIEW COMMISSION

AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

Proposed Regulation

X 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

11/12/03 *Shirley J. Harper*

HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

11/12/03 *Kathy Walms*

SENATE COMMITTEE ON CONSUMER PROTECTION &
PROFESSIONAL LICENSURE

11/12/03 *Elene Page*

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

October 31, 2003



JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
DANIEL F. CLARK, ESQ.
ARTHUR COCCODRILLI
MURRAY UBERG, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL

**INDEPENDENT REGULATORY REVIEW COMMISSION
COMMONWEALTH OF PENNSYLVANIA
333 MARKET STREET
14TH FLOOR
HARRISBURG, PA 17101**

irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>
(717) 783-5417
Fax (717) 783-2664

December 18, 2003

Janet P. Thomas, Chairperson
State Board of Cosmetology
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-4510 (IRRC #2223)
State Board of Cosmetology
Examination Fees

Dear Chairperson Thomas:

The Independent Regulatory Review Commission approved the subject regulation today.
Our Order is enclosed and will be available on our website at www.irrc.state.pa.us.

We appreciate the joint effort that went into producing a regulation that meets the criteria
and intent of the Regulatory Review Act.

Sincerely,

John R. McGinley, Jr.
Chairman

wbg

Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and
Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and
Professional Licensure Committee
Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure
Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure
Committee
Honorable Pedro A. Cortes, Secretary, Department of State

**INDEPENDENT REGULATORY REVIEW COMMISSION
APPROVAL ORDER**

Commissioners Voting:

Public Meeting Held December 18, 2003

John R. McGinley, Jr., Esq., Chairman
Alvin C. Bush, Vice Chairman
Daniel F. Clark, Esq.
Arthur Coccodrilli
Murray Ufberg, by Proxy

Regulation No. 16A-4510
State Board of Cosmetology
Examination Fees

On September 27, 2001, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Cosmetology (Board). This rulemaking amends 49 Pa. Code Chapter 7. The proposed regulation was published in the October 13, 2001 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 12, 2003.

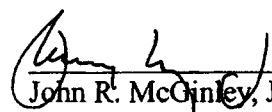
The regulation deletes references to examination fees. The fees are being deleted because they are set by the professional testing organizations that offer the exams. Applicants will submit the examination fees when they apply to the Board for licensure.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. §§ 517, 518 and 519(b)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

BY ORDER OF THE COMMISSION:

This regulation is approved.





John R. McGinley, Jr., Esq., Chairman

JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
ARTHUR COCCODRILLI
ROBERT J. HARBISON, III
JOHN F. MIZNER, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

December 13, 2001

Carol M. Thompson, Chairperson
State Board of Cosmetology
116 Pine Street
Harrisburg, PA 17105

Re: Regulation #16A-4510 (IRRC #2223)
State Board of Cosmetology
Examination Fees

Dear Chairperson Thompson:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce / km".

Robert E. Nyce
Executive Director
wbg
Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Clarence D. Bell, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Kim Pizzingrilli, Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Cosmetology Regulation No. 16A-4510

Examination Fees

December 13, 2001

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The State Board of Cosmetology must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by November 13, 2003, the regulation will be deemed withdrawn.

Remaining language in Chapter 7 - Consistency with other regulations; Clarity.

The Board is proposing to delete examination fees in Sections 7.2(a) and (b). However, there is existing language in Chapter 7, which refers to those fees and examinations given by the Board. These existing provisions are discussed in the following paragraphs.

First, Section 7.32a lists the required contents of examination applications. Sections 7.32a(a)(3) and (b) require applications to include the examination fees prescribed by Section 7.2. Will applicants continue to submit examination fees to the Board?

Second, Section 7.32g(a) requires payment of the "examination and license fees prescribed in § 7.2." This subsection and the two subsections, discussed above, need to be consistent with the Board's proposal to provide clarity for readers of Chapter 7. The Board should delete references to examination fees in Section 7.2 from Sections 7.32a(a)(3) and (b) and 7.32g(a) and Chapter 7 in its entirety.

Third, language in Section 7.31(a) states that individuals who want a teacher's, manager's, cosmetologist's, cosmetician's or manicurist's license must "pass the examination given by the Board for that license" (emphasis added). The Beauty Culture Law authorizes the Board to select and approve the examinations that applicants must pass for licensure. However, this proposed regulation acknowledges that the professional testing organization gives the examinations and charges the fees for this service. Should the words "pass the examination given by the Board for that license" be replaced with "pass the examination required by the Board for that license"?