

Regulatory Analysis Form

This space for use by IRRC

RECEIVED
 2006 NOV -2 PM 12: 17
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

(1) Agency

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

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

16A-4511

IRRC Number: **2528**

(3) Short Title

Accreditation of licensed schools

(4) PA Code Cite

49 Pa. Code, § 7.111, § 7.113a

(5) Agency Contacts & Telephone Numbers

Primary Contact: **C. William Fritz, II, 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
 Policy Statement

(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.

These additions amplify and clarify the requirement that a licensed school must submit to the Board, within 5 years after the Board licenses it, proof that the school is accredited by a Nationally recognized accrediting agency. The final rulemaking includes a provision allowing the Board to grant an extension to that 5-year provision for good cause. The additions also establish the requirement that a licensed school maintain accreditation in order to renew its license biennially.

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

The amendments are made under section 11 of the act of May 3, 1933 (P.L. 242, No. 86)(act) (63 P.S. § 517).

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.

No.

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

Since 1991, the Board's regulations have required a cosmetology school, within 5 years of being licensed by the Board, to submit to the Board proof that it is accredited by a Nationally recognized accrediting agency. In the intervening period, the Board has encountered instances in which a school licensee, prior to submitting proof of accreditation, changes ownership, location or name, and then asserts that the 5-year clock for accreditation should begin running again. Because the regulation is not clear on this question, some school licensees have managed to avoid submitting proof of accreditation for periods exceeding 5 years. Additionally, confusion has occurred with regard to whether, and for how long, a school is required to maintain that accreditation after submitting proof of it to the Board. This change would resolve both the issue of maintenance of accreditation and the loophole of change of ownership, name or location. At the same time, there is a provision allowing the Board the discretion to grant an extension for good cause shown by a new owner. This is designed to cover a situation when a new owner in good faith takes over a school which a prior owner neglected to accredit, but the new owner may only have 6 months remaining to obtain accreditation prior to the expiration of 5 years from initial licensure. This provision was added in response to concerns expressed by the HPLC and IRRC during proposed rulemaking.

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

Nonregulation poses the risk that those individuals who enroll in and attend unaccredited cosmetology schools, or schools which were accredited but allowed that accreditation to lapse because of the lack of a clear requirement that they maintain it, may be exposed to an educational program that is below par and does not prepare the students properly for their chosen careers. In such cases, the individuals have expended money to pay the tuition at the educational institution, but may not have received the education value they expected for their money. Also, unaccredited schools may not be permitted to offer financial aid to students, so schools that allow their accreditation to lapse may have students who lose their financial aid and cannot continue their education. Initial accreditation and the requirement that schools maintain accreditation increase the likelihood that the schools' students will obtain an acceptable level of education at their cosmetology schools of choice and will be able to obtain the financial assistance needed to complete their education.

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

Students who enroll in cosmetology schools are the primary beneficiaries of the requirement that such schools be accredited and maintain accreditation. The students are assured that the programs in which they enroll meet minimum standards established by the accrediting agency, and the students may also be able to obtain financial aid that would not be available through an unaccredited institution.

In 2004, the Pennsylvania cosmetology-related licensing exams were administered to 9,117 candidates, each of whom had to complete some level of cosmetology-related schooling, at a school licensed by the board, in order to be eligible to sit for the examination. Therefore, it is reasonable to estimate that approximately 9,000 individuals per year could benefit from this regulation.

(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.)

Cosmetology schools seeking licensure from and already licensed by the Board will be adversely affected by the regulation, primarily due to the costs related to accreditation. For example, the initial fee for starting the accreditation process from one Nationally recognized accrediting agency is \$1,160. In addition, after submitting the application to the accrediting agency, the applicant is billed for a pro-rated amount of a required accrediting agency sustaining fee, and the candidate process will be delayed until this fee is paid.

Presently, there are 158 licensed cosmetology schools with active licenses in the Commonwealth. 139 of those are already accredited, and would be required to maintain accreditation in order to renew their licenses biennially. The remainder would be required, once they have obtained accreditation in accordance with the existing regulation, to maintain that accreditation to renew their licenses biennially. It is impossible to determine how many schools might, in future, apply for licensure from the board and then be required to comply with 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 cosmetology schools licensed by, or seeking to be licensed by, the State Board of Cosmetology will be required to comply with this regulation. There are currently 158 licensed schools with active licenses in the Commonwealth. 139 of those are already accredited, and would be required to maintain accreditation in order to renew their licenses biennially. The remainder would be required, once they had obtained accreditation in accordance with the existing regulation, to maintain that accreditation to renew their licenses biennially. It is impossible to determine how many schools might, in future, apply for licensure from the board and then be required to comply with the regulation.

(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 Board sent a draft of the proposed regulation to, and solicited comments on the proposal from, various cosmetology-related interest groups and educational institutions within the Commonwealth, as well as to specific individuals who had previously asked the Board to keep them apprised of possible regulatory initiatives. The Board received comments from a single commentator, but those comments did not address this proposal pertaining to accreditation.

(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 that may be required.

The costs of accreditation vary from one accrediting agency to another. The National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS) is the only accrediting agency that is solely recognized to accredit cosmetology and cosmetology-related programs. However, two other accrediting agencies also accredit cosmetology programs. They are the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT) and the Council on Occupational Education (COE). Additionally, the Pennsylvania Department of Education approves or certifies secondary vocational technical schools, which is acceptable as accreditation under the Board's regulation.

By way of example, NACCAS accreditation fees, including an application fee, consultation fee, on-site visit fee and first year sustaining fee run approximately \$8,000. A school may have additional expenses if it needs to make changes to meet accreditation standards. Those expenses cannot be determined. Accredited schools also pay a base annual sustaining fee, after the first year, of \$1,620. Renewal occurs every 5 years, and applicants for renewal pay a fee of \$1,190.

(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.

Local governments will not be affected by the 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 that may be required.

There is no cost or savings to the Board associated with implementation of this regulation.

(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 5 subsequent years.

Because the costs to licensed schools will vary according to each individual school, the Board is unable to accurately estimate the costs to licensed schools associated with the rulemaking.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
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.

Because the costs to licensed schools will vary according to each individual school, the Board is unable to accurately estimate the costs to licensed schools associated with the rulemaking.

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

Program	FY -3 FY 02-03 Actual	FY -2 FY 03-04 Actual	FY -1 FY 04-05 Projected (no actual figure available till after 11-01-05)	Current FY FY 05-06 Budgeted
Cosmetology Board	\$2,278,868.79	\$2,486,972.00	\$2,472,990.53	\$2,825,000.00

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

Clarification of the accreditation requirement will eliminate any confusion that exists about whether, and for how long, a licensed school is required to maintain accreditation after submitting proof of accreditation to the Board. Additionally, schools that must maintain accreditation must continue to meet the accreditation standards established by the accrediting body. Therefore, students who attend accredited schools continue to benefit from the schools' consistently meeting those standards, students will not suffer from programs that first meet accreditation standards but then allow the accreditation, and possibly the program quality, to lapse, and students do not run the risk of losing financial aid in the event their schools fail to maintain accreditation. These benefits outweigh the costs associated with accreditation.

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

Because the accreditation requirement has existed since 1991 and these amendments simply clarify that existing requirement, no nonregulatory alternatives were considered.

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

Because the accreditation requirement has existed since 1991 and these amendments simply clarify that existing requirement, no alternative regulatory schemes were considered.

(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 licensure standards.

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

Only one other state, Utah, requires its cosmetology school licensees to obtain accreditation. However, the accreditation requirement has existed in Pennsylvania since 1991 with no apparent ill effects pertaining to competition with other states. Because of the need for accreditation in order for schools to be able to provide financial aid to their students, and therefore, to attract students, many cosmetology schools voluntarily would seek accreditation even if it were not required. Also, Pennsylvania residents frequently want to attend Pennsylvania schools, which means schools will continue to have a reason to establish themselves in Pennsylvania regardless of the existence of the accreditation requirement. For these reasons, and because the amendments simply clarify the existing accreditation requirement, the Board does not believe this regulation will put Pennsylvania at a competitive disadvantage with other states.

(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 rulemaking amends the Board's existing regulations at 49 Pa. Code § 7.111 and § 7.113a.

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

The Board reviews regulatory proposals at regularly scheduled public meetings. The Board has not scheduled public hearings or informational meetings regarding this regulation.

(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.

There will be an additional application requirement for applicants to the Board for school licensure, who will be required to submit proof of accreditation or application for accreditation with the application for licensure.

The Board's administrative staff will be required to check for continued accreditation of each school licensee at the time of biennial renewal of those licenses.

(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 perceived no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

(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 publication as final rulemaking in the *Pennsylvania Bulletin*.

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

The Board reviews the effectiveness of its regulations on an ongoing basis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

RECEIVED
2006 NOV -2 PM 12:18
INDEPENDENT REGULATORY
REVIEW COMMISSION

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.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Cosmetology
(AGENCY)

BY: 
Andrew C. Clark
OCT 12 2006

DOCUMENT/FISCAL NOTE NO. 16A-4511

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: Susan E. Rineer
Susan E. Rineer

(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.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF COSMETOLOGY
49 PA. CODE, CHAPTER 7
ACCREDITATION OF LICENSED SCHOOLS

The State Board of Cosmetology (Board) amends §§ 7.111 and 7.113a (relating to application for a school license, and accreditation by a Nationally recognized accrediting agency), to read as set forth in Annex A.

A. Effective Date

The amendments will be effective upon final-form publication in the Pennsylvania Bulletin.

B. Statutory Authority

Section 11 of the act of May 3, 1933 (P.L. 242, No. 86) (act) (63 P.S. § 517) authorizes the Board to promulgate regulations generally for the conduct of persons, copartnerships, associations or corporations affected by the act.

C. Background and Purpose

Since 1991, § 7.113a has required a cosmetology school, within 5 years of being licensed by the Board, to submit to the Board proof that it is accredited by a Nationally recognized accrediting agency. In the intervening period, the Board has encountered instances in which a school licensee, prior to submitting proof of accreditation, changes ownership, location or name, and then asserts that the 5-year clock for accreditation should begin running again. Because the regulation is not clear on this question, some school licensees have managed to avoid submitting proof of accreditation for periods exceeding 5 years. Additionally, confusion has occurred with regard to whether, and for how long, a school is required to maintain that accreditation after submitting proof of it to the Board. These amendments resolve both issues and clarify the accreditation requirement.

D. Description of Amendments

The amendments add a paragraph to § 7.111(a), make a technical change to § 7.111(b), delete an obsolete sentence from § 7.113a and add three subsections to § 7.113a. The additions amplify and clarify the requirement that a licensed school must submit to the Board, within 5 years after the Board licenses it, proof that the school is accredited by a Nationally recognized accrediting agency. The amendments also establish the requirement that a licensed school maintain accreditation in order to renew its license biennially. In addition, in response to concerns expressed in comments by the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) during proposed rulemaking, the final-form rulemaking adds a provision allowing the Board the discretion to grant an extension for a new owner to comply with the accreditation requirement for good cause. This provision is designed to cover a situation when a new owner in good faith takes over a school which a prior owner neglected to accredit, so that the new owner only has a short period, such as 6 months or a year, remaining to obtain accreditation prior to the expiration of 5 years from initial licensure. In such a case, the new owner could apply to the Board for an extension of the 5-year accreditation period for up to 5 additional years.

Section 7.111(a)(7) is added to establish the requirement that an owner-applicant for a school license must include, with the license application to the Board, proof that the school is already accredited or that the school has made application for accreditation in order to comply with § 7.113a. The new paragraph also specifies that certification or approval by the Department of Education suffices as proof of accreditation for secondary vocational technical schools.

Section 7.111(b) is amended by insertion of the term “school” in the first line to make it clear that school licenses are the subject of the provision.

Section 7.113a is amended by deleting the now obsolete provision that a school licensed by the Board as of May 25, 1991, must submit proof of accreditation by May 25, 1996.

Section 7.113a(b) is added, specifying that the requirement that a school submit proof of accreditation within 5 years of initial licensure is not negated by a change of ownership, name or location of the school within or following the 5-year period after initial licensure.

Section 7.113a(c) is added to allow the Board the discretion to grant an extension to the “accreditation within 5 years of licensure” requirement for good cause shown by a new owner. In such a case, the new owner could apply to the Board for an extension of the 5-year accreditation period for up to 5 additional years.

Section 7.113a(d) is added to establish the requirement that a school, after initial accreditation, must maintain accreditation in order to renew its license biennially.

E. Summary of Comments and Responses to Proposed Rulemaking

Proposed rulemaking was published at 36 Pa.B. 1229 (March 18, 2006) followed by a 30-day public comment period. The Board did not receive any comments from the general public or from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). Both the HPLC and the IRRC commented, expressing concern about there being no provision for the Board to grant extensions or the like to new owners, acting in good faith, who cannot meet the 5-year accreditation period because of a prior owner’s delay in initiating or obtaining accreditation. In response to those comments, the Board added subsection 7.113a(c) to the final-form rulemaking, allowing the Board the discretion to grant an extension for good cause shown by a new owner. Under this provision, the new owner could apply to the Board for an extension of the 5-year accreditation period for up to 5 additional years.

F. Fiscal Impact and Paperwork Requirements

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, any political subdivision, or the private sector.

G. Sunset Date

The Board continuously monitors its regulations. 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 March 8, 2006, the Board submitted a copy of this proposed rulemaking, published at 36 Pa.B. 1229, to IRRC and to the Chairpersons of the HPLC and SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were to be provided with copies of the comments received during the public comment period, as well as other documents when requested. However, the Board received no public comments. In preparing the final rulemaking, the Board has considered the comments from IRRC and the HPLC.

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

I. Contact Person

Further information may be obtained by contacting Hilarene Staller, Board Administrator, State Board of Cosmetology, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, (717) 783-7130.

J. 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) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and no comments were received.
- (3) The amendments to the final-form rulemaking do not enlarge the purpose of the proposed rulemaking publishing at 36 Pa.B. 1229.
- (4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

K. Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board, 49 Pa. Code Chapter 7, 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 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 upon publication in the Pennsylvania Bulletin.

Susan E. Rineer
Chairperson

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**

LICENSURE AND ADMINISTRATION OF SCHOOLS OF COSMETOLOGY

§7.111. Application for a school license.

- (a) An owner-applicant for a school license shall submit a license application to the Board with the following:

* * * * *

- (7) Proof of accreditation or application for accreditation in accordance with §7.113a. (relating to accreditation by a Nationally recognized accrediting agency). Approval by the Department of Education in accordance with Article XVIII of the Public School Code of 1949 (24 P.S. §§ 18-1801 – 18-1855) is acceptable proof of accreditation for secondary vocational technical schools.
- (b) A school license will not be issued until the Board has verified the sworn statements made by the owner-applicant in the license application and the school has been inspected by a Bureau inspector as provided in §7.113 (relating to inspection of a school before licensure). The Board may request the owner-applicant to appear before the Board to answer questions about the application.

* * * * *

§7.113a. Accreditation by a Nationally recognized accrediting agency.

- (a) Accreditation required. Within 5 years after being licensed by the Board, a school shall submit to the Board proof that it is accredited by a Nationally recognized accrediting agency. [A

school that is licensed by the Board as of May 25, 1991 shall submit proof of accreditation by May 25, 1996.]

(b) Change of ownership, name or location. A EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (c), A change of ownership, name or location of the school within or following the 5-year period after initial licensure does not negate or postpone the requirement for accreditation within 5 years of initial licensure.

(c) EXTENSION FOR GOOD CAUSE. THE BOARD, UPON GOOD CAUSE SHOWN BY A NEW OWNER WHO HAS TAKEN OWNERSHIP OF A SCHOOL WITHIN THE 5-YEAR PERIOD AFTER INITIAL LICENSURE, MAY EXTEND THE PERIOD FOR OBTAINING ACCREDITATION FOR UP TO AN ADDITIONAL 5 YEARS FROM THE DATE THE NEW OWNER TAKES OWNERSHIP.

(d) Biennial renewal. After initial accreditation, a licensed cosmetology school shall maintain accreditation as a condition of biennial renewal of the school license.

* * * * *

List of Commentators on 16A-4511

There were no public comments received relating to 16A-4511 – Accreditation of Licensed Schools.

(h) *Treatment of reptiles and amphibians.* Reptiles and amphibians held in connection with an organized hunt may not be confined without water or shade or otherwise physically abused or handled roughly. Free-handling of native, venomous reptiles in an organized hunt is prohibited. At the conclusion of the organized hunt, the sponsor shall return the snakes to the registered participants who entered the snakes in the event.

§ 79.8. Artificial propagation.

Except for hobby breeders as defined in 3 Pa.C.S. Chapter 42 (relating to aquaculture development), it is unlawful to artificially propagate reptiles and amphibians without being registered with the Department of Agriculture under 3 Pa.C.S. Chapter 42. It is unlawful to artificially propagate reptiles and amphibians except those species that the Commission has approved for artificial propagation in this Commonwealth. The Bureau of Fisheries will maintain a list of species for which the Department of Agriculture may issue registrations for artificial propagation and registrations for dealers of live aquatic animals. The Director of the Bureau of Fisheries may update or modify the list of authorized species by adding species to or deleting species from the list as necessary for the protection and management of reptiles and amphibians in this Commonwealth. The Commission will provide the list to the Department of Agriculture on or before January 31 each year and whenever the Commission updates or modifies the list. Copies of the list of authorized species are available upon request from the Pennsylvania Fish and Boat Commission, Bureau of Fisheries, 450 Robinson Lane, Bellefonte, PA 16823.

§ 79.9. Sale of native species.

Except as otherwise provided in the code or this chapter, it is unlawful to take, catch, kill or possess for purposes of selling or offering for sale or to sell, offer for sale, import or export for consideration, trade or barter, or purchase an amphibian or reptile that was taken from lands or waters wholly within this Commonwealth, and its progeny, whether dead or alive, in whole or in parts, including eggs or any life stage.

§ 79.10. Transportation and importation of native species.

(a) It is unlawful to transport or import into or within this Commonwealth a native species from another jurisdiction.

(b) It is unlawful to receive a native species that was transported or imported into or within this Commonwealth from another jurisdiction.

(c) This section does not apply to zoos or other accredited institutions that transport and import native species for scientific, educational or research purposes and Commission-recognized rehabilitators provided that they have received the written permission of the Executive Director or a designee under § 79.3(c) (relating to season and daily possession limits).

§ 79.11. Introduction of nonnative species.

It is unlawful to introduce any species of reptile or amphibian into the natural environment of this Commonwealth if that species is not native to this Commonwealth. Persons who import nonnative reptiles or amphibians into this Commonwealth shall institute appropriate safeguards to prevent their introduction into the environment of this Commonwealth.

§ 79.12. Color morphs.

For purposes of this chapter, it is presumed that color morphs of certain native species that are held in captivity

were not taken from the wild. Therefore, the Commission has determined that color morphs of certain native species are exempt from the requirements of this chapter as provided in this section. The Commission will from time to time publish in the *Pennsylvania Bulletin* a list of color morphs of native species to which the following provisions apply:

(1) Color morphs of native species designated by the Commission are not subject to the possession limits of § 79.3 (relating to seasons and daily possession limits) provided they are not taken from the wild.

(2) Color morphs of native species designated by the Commission may be artificially propagated provided they are not taken from the wild.

(3) Color morphs of native species designated by the Commission may be sold provided they are not taken from the wild.

§ 79.13. Natural Areas.

(a) This chapter applies to all native species occurring naturally within the boundaries of selected Natural Areas of the Department of Conservation and Natural Resources.

(b) The taking, catching, killing or possession of individuals of any native species occurring naturally within the boundaries of designated Natural Areas by persons other than those possessing a valid scientific collector's permit is prohibited.

(c) Notice of this section will be posted at parking lots or access areas on the fringe of each designated Natural Area.

(d) Subsections (a) and (b) apply to Natural Areas within State Forests posted in accordance with subsection (c).

[Pa.B. Doc. No. 06-424. Filed for public inspection March 17, 2006, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

[49 PA. CODE CH. 7]

Accreditation of Licensed Schools

The State Board of Cosmetology (Board) proposes to amend §§ 7.111 and 7.113a (relating to application for a school license; and accreditation by a Nationally recognized accrediting agency) to read as set forth in Annex A.

A. Effective Date

The proposed amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 11 of the act of May 3, 1933 (P. L. 242, No. 86) (Act 86) (63 P. S. § 517) authorizes the Board to promulgate regulations generally for the conduct of persons, copartnerships, associations or corporations affected by the act.

C. Background and Purpose

Since 1991, § 7.113a has required a cosmetology school, within 5 years of being licensed by the Board, to submit to the Board proof that it is accredited by a Nationally recognized accrediting agency. In the intervening period,

the Board has encountered instances in which a school licensee, prior to submitting proof of accreditation, changes ownership, location or name, and then asserts that the 5-year clock for accreditation should begin running again. Because the regulation is not clear on this question, some school licensees have managed to avoid submitting proof of accreditation for periods exceeding 5 years. Additionally, confusion has occurred with regard to whether, and for how long, a school is required to maintain that accreditation after submitting proof of it to the Board. This proposed rulemaking would resolve both the issue of maintenance of accreditation and the issue of change of ownership, name or location, thereby eliminating the related regulatory construction problems that exist under the current language and clarifying the accreditation requirement.

D. Description of Amendments

The proposed rulemaking adds a paragraph to § 7.111(a), makes a technical amendment to § 7.111(b), deletes an obsolete sentence from § 7.113a and adds two subsections to § 7.113a. The proposed additions amplify and clarify the requirement that a school licensed by the Board submit to the Board, within 5 years after the Board licenses it, proof that the school is accredited by a Nationally recognized accrediting agency. The proposed rulemaking also establishes the requirement that a licensed school maintain accreditation in order to renew its license biennially.

Proposed § 7.111(a)(7) establishes the requirement that an owner-applicant for a school license must include, with the license application to the Board, proof that the school is already accredited or that the school has made application for accreditation to comply with § 7.113a. The new paragraph also specifies that certification or approval by the Department of Education suffices as proof of accreditation for secondary vocational technical schools.

Section 7.111(b) is amended by inserting the term "school" in the first line to make it clear that school licenses are the subject of the provision.

Section 7.113a is amended by deleting the now obsolete provision that a school licensed by the Board as of May 25, 1991, must submit proof of accreditation by May 25, 1996.

Section 7.113a(b) is added, specifying that the requirement that a school submit proof of accreditation within 5 years of initial licensure is not negated by a change of ownership, name or location of the school within or following the 5-year period after initial licensure.

Section 7.113a(c) is added to establish the requirement that a school, after initial accreditation, must maintain accreditation in order to renew its license biennially.

E. Fiscal Impact and Paperwork Requirements

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, any political subdivision or the private sector.

F. Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 8, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and

the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

H. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Hilarene Staller, 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*.

SUSAN E. RINEER,
Chairperson

Fiscal Note: 16A-4511. 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 LICENSURE AND ADMINISTRATION OF SCHOOLS OF COSMETOLOGY

§ 7.111. Application for a school license.

(a) An owner-applicant for a school license shall submit a license application to the Board with the following:

* * * * *

(7) **Proof of accreditation or application for accreditation in accordance with § 7.113a. (relating to accreditation by a Nationally recognized accrediting agency). Approval by the Department of Education in accordance with Article XVIII of the Public School Code of 1949 (24 P.S. §§ 1801—1855) is acceptable proof of accreditation for secondary vocational technical schools.**

(b) A school license will not be issued until the Board has verified the sworn statements made by the owner-applicant in the license application and the school has been inspected by a Bureau inspector as provided in § 7.113 (relating to inspection of a school before licensure). The Board may request the owner-applicant to appear before the Board to answer questions about the application.

§ 7.113a. Accreditation by a Nationally recognized accrediting agency.

(a) **Accreditation required.** Within 5 years after being licensed by the Board, a school shall submit to the Board proof that it is accredited by a Nationally recognized accrediting agency. [A school that is licensed by the Board as of May 25, 1991 shall submit proof of accreditation by May 25, 1996.]

(b) *Change of ownership, name or location.* A change of ownership, name or location of the school within or following the 5-year period after initial licensure does not negate or postpone the requirement for accreditation within 5 years of initial licensure.

(c) *Biennial renewal.* After initial accreditation, a licensed cosmetology school shall maintain accreditation as a condition of biennial renewal of the school license.

[Pa.B. Doc. No. 06-425. Filed for public inspection March 17, 2006, 9:00 a.m.]

[49 PA. CODE CH. 7]

Removal of Term "Manager"

The State Board of Cosmetology (Board) proposes to amend Chapter 7 (relating to State Board of Cosmetology) to read as set forth in Annex A. The proposed rulemaking removes the term "manager" and all references to a cosmetology shop manager license from the Board's regulations to conform them to the changes made to the act of May 3, 1933 (P. L. 242, No. 86) (Act 86) by the act of June 29, 2002 (P. L. 645, No. 98) (Act 98).

A. Effective Date

The proposed amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 11 of Act 86 (63 P. S. § 517) authorizes the Board to promulgate regulations generally for the conduct of persons, copartnerships, associations or corporations affected by Act 86.

C. Background and Need for Proposed Amendments

The Board's existing regulations were promulgated under prior language of section 4.4 of Act 86 (63 P. S. § 510.4), dating back to 1976, that required either an owner or a licensed manager employed by the owner to manage a shop. Accordingly, the existing regulations include a manager license classification as well as related provisions addressing licensure and management issues. All of these regulations consistently refer to the manager and to the prior language of section 4.4 of Act 86 regarding management of shops.

Section 4.4 of Act 86 was amended by the act of October 18, 2000 (P. L. 607, No. 81) to, among other things, limit the need for a licensed shop manager in some circumstances, but that amendment did not eliminate the manager license classification. Subsequently, Act 98 amended section 4.4 of Act 86 again, entirely removing the requirement that a cosmetology shop be managed by the shop's owner, a licensed manager or a licensed cosmetology teacher. In its place, Act 98 established the requirements that every shop owner designate a person in charge of the shop in the owner's absence, that the name of the owner or designated person in charge be posted in a conspicuous place in the shop and that the owner or designated person in charge be readily available to Bureau of Professional and Occupational Affairs inspectors during business hours.

Upon implementation of Act 98, the Board eliminated the license category of manager and no longer enforced the provisions of its regulations referring to the manager or the manager license classification. This proposed rule-

making amends the Board's regulations to delete the now obsolete references and to address the new requirements related to oversight of a shop by the owner or the designated person in charge.

D. Description of Proposed Amendments

The proposed amendments to §§ 7.1, 7.11(2), 7.12, 7.31(a), 7.32g(c) and 7.128(b) delete the term "manager" or "manager's." Similarly, §§ 7.13, 7.32c and 7.129(d) (relating to scope of manager's license; requirements for manager's examination; and curriculum requirements) are deleted, as is the second sentence of § 7.45 (relating to reexamination if the license is not current for 5 or more years), because these provisions are now obsolete.

In §§ 7.51(a)(2), 7.64(a) and (b) and 7.111(a)(2)(ii)(B) (relating to application for a shop license; responsibilities of shop manager; and application for a school license), the proposed rulemaking substitutes the phrase "the designated person in charge of the shop in the owner's absence" for either the term "manager" or for a reference to the individual "managing the shop." Additionally, in § 7.62 (relating to management of cosmetology shop), the proposed rulemaking adds language to subsection (a) establishing the need for the designated person in charge of the shop in the owner's absence to be a licensee; deletes an obsolete portion of subsection (b); and adds subsections (c) and (d), that vest certain responsibilities in both the owner and the designated person in charge of the shop in the owner's absence.

E. Fiscal Impact and Paperwork Requirements

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, any political subdivision or the private sector.

F. Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 8, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

H. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Hilarene Staller, 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*.

SUSAN E. RINEER,
Chairperson



RECEIVED

MAY 18 2006

Office of Chief Counsel

PHONE: (717) 783-5417
FAX: (717) 783-2664
irrc@irc.state.pa.us
http://www.irrc.state.pa.us

ALVIN C. BUSH, CHAIRMAN
ARTHUR COCCODRILLI
JOHN R. MCGINLEY, JR., ESQ.
JOHN F. MIZNER, ESQ.
KIM KAUFMAN, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL

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

May 17, 2006

Susan E. Rineer, Chairperson
State Board of Cosmetology
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-4511 (IRRC #2528)
State Board of Cosmetology
Accreditation of Licensed Schools

Dear Chairperson Rineer:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director

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

DEPT OF STATE
OFFICE OF
THE SECRETARY

2006 MAY 18 AM 10:25

RECEIVED

Comments of the Independent Regulatory Review Commission

on

State Board of Cosmetology Regulation #16A-4511 (IRRC #2528)

Accreditation of Licensed Schools

May 17, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the March 18, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Cosmetology (Board) to respond to all comments received from us or any other source.

1. Implementation procedures and timetables for compliance.

In a letter dated May 5, 2006, the House Professional Licensure Committee questions what the Board's policy will be if a school changed ownership and the prior owner was delinquent in obtaining accreditation. We note that the Board's response to Question 14 in the Regulatory Analysis Form states there are 158 licensed cosmetology schools in Pennsylvania and 139 of those are accredited. This implies that 19 schools are licensed, but are not yet accredited. These unaccredited schools could experience legitimate difficulty meeting the five year deadline as a result of a change of ownership, change of location or even within the accreditation process itself. The regulation should include or cross reference a provision to allow the licensee the opportunity to demonstrate good cause to the Board and request additional time to get initial accreditation.

2. Clarity.

The cross reference in Paragraph 7.111(a)(7) to Article XVIII of the Public School Code should be corrected to read 24 P.S. §§ 18-1801 – 18-1855.

Regulation 16A-4511
State Board of Cosmetology

PROPOSAL: Regulation 16A-4511 amends Pa. Code, Chapter 7, regulations of the State Board of Cosmetology. The regulation addresses accreditation on the part of cosmetology schools.

The regulations of the board require a licensed cosmetology school to submit proof of national accreditation within five years after obtaining a license. 49 Pa. Code 7.113a. Essentially, this regulation amplifies this requirement, specifying that if the school undergoes a change of ownership, name or location, the duty to obtain accreditation must be fulfilled.

Regulation 16A-4511 is proposed rulemaking which was published in the Pennsylvania Bulletin on March 18, 2006.

ANALYSIS: Section 6 of the Cosmetology Law requires that cosmetology schools be licensed. Upon renewal of the license, the owner of the school must supply an affidavit stating that the school is in compliance with the act and regulations of the board. Section 6(b) of the Cosmetology Law. A school licensed by the board must submit proof to it within five years of licensure that the school has been accredited by a nationally recognized accrediting agency. 49 Pa. Code 7.113a.

Section 11 of the Cosmetology Law authorizes the board to promulgate regulations regarding the conduct of persons, copartnerships, associations, and corporations affected by the Cosmetology Law.

According to the board, there are 158 licensed cosmetology schools in the Commonwealth. Of that number, 139 are accredited. Also, according to the board, the fee to begin the accreditation process is \$1,160. The board also stated that one accrediting agency, the National Accrediting Commission of Cosmetology Arts and Sciences charges about \$8,000. That fee is for the application, consultation, on-site visit and first year sustaining fee.

The Department of Education accredits secondary technical vocational schools.

The board stated in this regulation packet that schools that are not accredited may not be permitted to offer financial aid to students and may provide an education that is not up to the level of accredited schools.

The proposed regulation provides the following:

Section 7.111

This section requires that an applicant for a school license submit proof to the board of national accreditation. Proof of accreditation by the Pennsylvania Department of Education is satisfactory proof of accreditation for secondary vocational technical schools.

Section 7.113a

This section specifies that a change of ownership, name or location within or following the five year period after initial licensure does not negate or postpone the requirement of obtaining national accreditation within five years of licensure.

This section also specifies that, as a condition of biennial renewal, the school must maintain accreditation.

Recommendation: It is recommended the House Professional Licensure Committee take no formal action until final regulations are promulgated.

Professional Licensure Committee
House of Representatives
May 2, 2006

PUBLIC COMMENTATORS FOR 16A-4511

There were no public comments received relating to Regulation 16A-4511



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF COSMETOLOGY
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7130

November 2, 2006

The Honorable Alvin C. Bush, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Rulemaking
State Board of Cosmetology
16A-4511: Accreditation of Licensed Schools

Dear Chairman Bush:

Enclosed is a copy of a final rulemaking package of the State Board of Cosmetology pertaining to Accreditation of Licensed Schools.

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

Sincerely,

A handwritten signature in black ink that reads "Susan E. Rineer".

Susan E. Rineer, Chairperson
State Board of Cosmetology

SER/CWF:rs

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Department of State
C. William Fritz, II, Counsel
State Board of Cosmetology
State Board of Cosmetology

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

I.D. NUMBER: 16A-4511
 SUBJECT: ACCREDITATION OF LICENSED SCHOOLS
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF COSMETOLOGY

TYPE OF REGULATION

- 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

RECEIVED
 2006 NOV -2 PM 12:18
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
11/2/06	<i>Lisa Seichammer</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
11/2/06	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
11/2/06	<i>Kathy Coops</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)