

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

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

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

16A-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: Ruth D. Dunnewold, Senior Deputy Chief 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.

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 proposal also would 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 proposed under section 11 of the Beauty Culture Law (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 proposal would resolve both the issue of maintenance of accreditation and the loophole of change of ownership, name or location, thereby eliminating the related regulatory construction problems that exist under the current regulation and clarifying the accreditation requirement.

(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 gotten 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 9117 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 9000 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 that review other types of programs will 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/saving 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 | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Savings | | | | | | |
| COSTS: | N/A | N/A | N/A | N/A | N/A | N/A |
| Regulated | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Costs | | | | | | |
| REVENUE | N/A | N/A | N/A | N/A | N/A | N/A |
| Regulated | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue | | | | | | |

(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 existing 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.

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

Since the accreditation requirement has existed since 1991 and this proposal would 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.

Since the accreditation requirement has existed since 1991 and this proposal would 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 since the proposal simply clarifies the existing accreditation requirement, the Board does not believe this regulation will put Pennsylvania licensees 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 proposal would amend 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)

22528

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.

[Signature]
BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Cosmetology
(AGENCY)

[Signature]
BY: _____
DAVID J. DEUKES

DOCUMENT/FISCAL NOTE NO. 16A-4511

JAN 11 2006

DATE OF APPROVAL

DATE OF ADOPTION: _____

BY: *[Signature]*
Susan E. Rineer

DEC 16 2005

DATE OF APPROVAL

EXECUTIVE
(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.

PROPOSED 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) 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 amendments will be effective upon publication as final-form rulemaking in the Pennsylvania Bulletin.

B. Statutory Authority

Section 11 of the Beauty Culture Law (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 (relating to accreditation by a Nationally recognized accrediting agency) 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 proposal 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 proposal would add a paragraph to § 7.111(a) (relating to application for a school license), make a technical change to § 7.111(b), delete an obsolete sentence from § 7.113a and add two subsections to that provision. 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 proposal also would establish the requirement that a licensed school maintain accreditation in order to renew its license biennially.

Section 7.111(a) would be amended by adding subsection (7) 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 subsection also would specify that certification or approval by the Pennsylvania Department of Education suffices as proof of accreditation for secondary vocational technical schools.

Section 7.111(b) would be 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 would be 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) would be 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) would be added to establish the requirement that a school, after initial accreditation, must maintain accreditation in order to renew its license biennially.

E. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation, the Board solicited input and suggestions from the regulated community and other parties who have identified themselves as interested in the Board’s regulatory agenda.

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 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 the 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 shall 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 objection raised.

I. 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.

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 Pennsylvania State Department of Education in accordance with article XVIII of the Public School Code (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.

* * * *



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

March 8, 2006

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101


Re: Proposed Regulation
State Board of Cosmetology
16A-4511: Accreditation of Licensed Schools

Dear Chairman McGinley:

Enclosed is a copy of a proposed 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,


Susan E. Rineer, Chairperson
State Board of Cosmetology

SER/RDD:kmh

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
Ruth D. Dunnewold, Senior Deputy Chief 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

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
- a. With Revisions b. Without Revisions

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|--------|-------------------------|---|
| 2/8/06 | <u>Sandra J. Harper</u> | HOUSE COMMITTEE ON PROFESSIONAL LICENSURE |
| 3/8/06 | <u>Mary Walmer</u> | SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE |
| 3/8/06 | <u>St. Helmer</u> | INDEPENDENT REGULATORY REVIEW COMMISSION |
| | | ATTORNEY GENERAL (for Final Omitted only) |
| 3/8/06 | <u>Mary Casas</u> | LEGISLATIVE REFERENCE BUREAU (for Proposed only) |