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INDEPENDENT REGULATORY
REVIEW COMMISSION

Regulatory Analysis Form

(1) Agency

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

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

16A-4514

IRRC Number: 2628

(3) Short Title

General Revisions – Hairbraiding and General Update

(4) PA Code Cite

49 Pa. Code, Chapter 7, §§ 7.1, 7.2,
7.11 - 7.12a, 7.14 - 7.15, 7.17, 7.31 -
7.32b, 7.32d - 7.32h, 7.34, 7.35,
7.41, 7.43, 7.45, 7.50 - 7.53, 7.62,
7.64 - 7.66, 7.71 - 7.71c, 7.75 - 7.79,
7.81 - 7.83, 7.90 - 7.95, 7.97, 7.98,
7.100, 7.111, 7.114, 7.115, 7.118,
7.118a, 7.120, 7.123, 7.125, 7.128,
7.129, 7.131 - 7.134

(5) Agency Contacts & Telephone Numbers

Primary Contact: C. William Fritz, II, Counsel,
Department of State (717) 783-7200
Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

Proposed Rulemaking
 Final Order Adopting Regulation
 Final Rulemaking (Proposed Omitted)

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

No
 Yes: By the Attorney General
 Yes: By the Governor

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

The State Board of Cosmetology revises the Board's regulations in order to implement changes made to the Cosmetology Law (63 P.S. § 507 - § 527) by the Act of July 7, 2006 (P.L. 704, No. 99) (Act 99), as well as to generally update the regulations to strengthen safety and sanitation requirements and to reflect current processes and practices utilized by the Board.

(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 Cosmetology Law (63 P.S. § 517).

(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.

Section 16 of Act 99 mandates that the Board promulgate the regulations required to implement Act 99's provisions within 18 months of Act 99's effective date. The effective date was September 6, 2006. Accordingly, to the extent that these regulations implement provisions of the Law modified or added to Act 99, these regulations are mandatory. However, to the extent the regulations also update existing regulations that were not impacted by Act 99, there is no mandate for those portions of this final rulemaking.

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

Act 99 made substantial changes to the Cosmetology Law by adding a new limited license classification, the natural hair braider license; by making changes to terminology; by making other changes within the Cosmetology Law to implement the new natural hair braider license; and by extending to all limited license classes (1) the ability to practice outside of a licensed salon in client's residences under specified circumstances, (2) the ability to practice on a temporary license, and (3) the prohibition on booth rental within a licensed salon. These changes require corresponding changes and additions to the Board's existing regulations, and Act 99 requires the Board to promulgate regulations to make those changes within 18 months of Act 99's effective date.

Because the Board needed to make wholesale changes to its regulations in order to implement Act 99, the Board also took the opportunity to propose a number of other changes to the regulations, which were originally promulgated in 1975. Although piecemeal changes have been made to the regulations over the years, generally in response to legislative changes, the Board had not undertaken an overall review and update since 1975. In the intervening period, some of the Board's regulatory provisions have become obsolete, terms of art have changed, standards of sanitation have evolved, some of the Board's licensing and examination processes have changed, and deficiencies or errors in the regulations have become apparent. Accordingly, in this final rulemaking, the Board is making changes, in addition to those demanded by Act 99, that the Board finds necessary to correct problems in the regulations and to address the way the profession and the Board have grown since 1975.

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

Because the statute mandates that the Board promulgate regulations to implement Act 99, nonregulation is not an option with regard to the changes or additions to the Law that Act 99 made.

With regard to changes unrelated to Act 99, the risk of operating under obsolete or problematic regulations lies in the fact that the safety and sanitation regulations from 30 years ago are not really adequate for today; licensees to whom the regulations apply may not understand their

responsibilities under the regulations if the profession has changed in 30 years or the regulations are not clear; or licensees may expect out of date standards or procedures to apply to licensing and examination processes that have been changed administratively but not in the regulations. Especially with regard to health, safety and general welfare, sanitation and cleanliness standards have changed since 1975, and they need to be updated so that the Board's licensees are operating under 21st century standards, which is what their clients expect and deserve.

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

Prior to Act 99, individuals were required to possess a cosmetology license in order to lawfully practice natural hair braiding, which meant obtaining 1250 hours of training from a licensed cosmetology school or 2000 hours of training as an apprentice cosmetologist. Individuals who practiced natural hair braiding without a cosmetology license were subject to prosecution and the imposition of civil penalties for practice without a license. However, under Act 99, as implemented in these regulations, individuals who can prove, among other things, 3 years of practice as a natural hair braider prior to the date they apply for licensure as natural hair braiders are exempt from prosecution for unlicensed activity and may obtain a license without having to pass an examination or complete any schooling. Therefore, individuals who learned hair braiding in some context other than a licensed cosmetology school and have been practicing it for 3 years will benefit from this regulation because now it is much simpler for them to obtain a license and practice lawfully. In addition, clients of the new licensees will benefit because with licensing comes accountability to and oversight by the licensing board, which helps to protect the consumers who utilize the new licensees' services. We do not have reliable information available to indicate how many individuals may benefit in these ways, either as a future hair braider licensee or as the client of a future hair braider licensee.

Individuals employed in and who are clients of the various types of salons will benefit from the updated safety and sanitation regulations because the updates will improve the safety and sanitary conditions within salons. Additionally, licensees and applicants for licensees will benefit from clarification of existing provisions that were confusing or from changes to the regulations that update processes and procedures related to examination and licensing so that the processes and procedures set forth in the regulations coincide with those actually in use at present. There are approximately 117,000 active individual licensees in Pennsylvania who must be employed in salons in order to operate, so at least that many individuals would benefit. It is impossible to estimate how many clients all those licensees have and how many individuals may become applicants for licensure in the future.

Holders of limited licenses who desire to obtain teacher licenses will benefit because previously, such licensees had to have the full 1250 hours of cosmetology training, in addition to 500 hours of curriculum specific to teaching methods and practices, in order to obtain a teacher license. Under Act 99's changes, holders of limited licenses need only obtain the additional 500 hours pertaining to teaching in order to obtain a teacher license, albeit a teacher licensed limited to the practice for which the limited licensee is trained. At present, there are approximately 17,000 limited licensees who in future could obtain their teacher licenses who would benefit from this regulation.

Applicants for school licenses will benefit from the regulation because the regulation broadens what the Board will accept as satisfactory work experience in a potential school supervisor. Previously, the school supervisor named in an application for school license had to have 1800 hours of satisfactory experience as the designated person in charge of a salon; this regulation changes that requirement to, simply, 1800 hours of satisfactory work experience. This broadens the candidate pool for school supervisors. Because this class of beneficiaries of the regulation comprises applicants who in the future may apply for school licenses, or individuals who in the future may aspire to be school supervisors, there is no reliable manner in which to estimate how many school applicants or erstwhile school supervisors may benefit in this way.

(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 anticipates no adverse impact from 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 licensees of the Board will be required to comply with the regulation. At present, there are approximately 135,000 active licensees of the Board.

Additionally, any individual who desires to be licensed as a natural hair braider or to operate a natural hair braiding salon will be required to comply with the regulation. There is no reliable information available to enable an estimate as to how many potential natural hair braider licensees or natural hair braider salon licensees there may be in Pennsylvania.

(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.

Because this regulation has been drafted and developed primarily to implement Act 99 and is mandated by Act 99 to be implemented within 18 months of the Act's effective date, no public input was obtained in the development and drafting of this proposal. However, the final rulemaking has been discussed at length during regular public meetings of the Board over the past six months and revisions made based on those discussions.

(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.

Candidates in the regulated community who desire to be licensed as natural hair braiders or limited license teachers, or wishing to operate a natural hair braiding salon, will be required to pay the initial licensing fees of \$10 for natural hair braider or limited teacher licenses and \$55 for the salon, and will thereafter be required to pay biennial renewal fees of \$35 for natural hair braider and limited teacher licenses and \$60 for the salon.

These licensure fees are the same as for initial licensure and biennial renewal for existing license classes. The Board is required by section 16(c) of the act (63 P.S. § 522(c)) to reconcile its expenses and revenue biennially and to increase fees as needed to meet or exceed projected expenditures. Lack of these licensing fees would adversely impact the fiscal integrity of the Board.

Additionally, natural hair braiders who are licensed without examination will be required to obtain 150 hours of continuing education in order to renew for the first biennial renewal period after they are initially licensed. The cost of such education is unknown and may vary depending on the particular school that a candidate chooses to attend.

Individuals who desire to be licensed as natural hair braiders by examination will be required to obtain 300 hours of education, the cost of which is unknown and may vary depending on the particular school that a candidate chooses to attend, and will pay an examination fee established by the examination vendor. As of the date of this writing, the exam vendor charges the same fee for all exam candidates, regardless of the license for which they are applying: \$89 for the written portion of the examination and \$60 for the practical portion of the examination.

Limited teacher license candidates will be required to obtain 500 hours of training in education-related subjects at a cost that is not known and which may vary depending on the particular school that a candidate chooses to attend. They will also pay an examination fee established by the examination vendor. As of the date of this writing, the exam vendor charges the same fee for all exam candidates, regardless of the license for which they are applying: \$89 for the written portion of the examination and \$60 for the practical portion of the examination.

(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.

The Board expects to incur increases in administrative costs by implementing the regulation. The additional license classifications will increase the number of licensees of the Board, which could well require an increase in personnel/complement in order to provide adequate and appropriate licensing, enforcement and disciplinary action services related to the new and additional licensees. Increasing staffing will require additional funding, depending on the number of additional licensees brought within the Board's oversight. The Board intends, by implementing the initial license and biennial license renewal fees that this proposal would establish in section 7.2, to raise revenue through those licensing fees that will permit the Board to recoup the costs of its operations related to the new license classes. Indeed, section 16(c) of the Law (63 P.S. § 522(c)), mandates that Board revenues meet Board expenses, so this proposal accords with that responsibility.

However, the Board also expects enforcement activity related to unlicensed natural hair braiding, including investigations, inspections, and prosecutions, to decline since licensing is now available that requires much less formal training than a full cosmetology license requires, which is the license that was necessary prior to Act 99's changes in the Law. The Board expects this to result in a cost savings, but it is impossible to determine how much of a savings.

(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. N/A

	Current FY FY 06-07	FY +1 FY 07-08	FY +2 FY 08-09	FY +3 FY 09-10	FY +4 FY 10-11	FY +5 FY 11-12
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated						
Local						
State						
Total Savings						
COSTS:						
Regulated						
Local						
State						
Total Costs						
REVENUE:						
Local						
State						
Total Revenue						

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

Because the Board does not have any way of knowing how many individuals will apply to be licensed in the new license classes, the Board is unable to arrive at an estimate of the costs to the regulated community.

However, the costs to new licensees, their biennial renewal costs, and the costs related to other new fees will be as follows:

License class	Proposed initial	Proposed biennial renewal
Natural hair braider	\$10.00	\$35.00
Natural hair braider shop	\$55.00	\$60.00
Limited practice teacher	\$10.00	\$35.00

Facility-related fees	Proposed fee
Change in cosmetology school – inspection required	\$110.00
Change in cosmetology school – no inspection required	\$35.00
Change in salon license (any license class) – inspection required	\$55.00
Change in salon license (any license class) – no inspection required	\$15.00
Reinspection of salon (any license class) or cosmetology school	\$40.00

Please see the attached Fee Report Forms that explain and describe the fees and the fee-related activities and costs underlying them.

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

Program	FY –3 FY 04-05 Actual	FY –2 FY 05-06 Actual	FY –3 FY 06-07 Projected	Current FY FY 07-08 Budgeted
Cosmetology Board	\$2,367,234.61	\$2,443,197.37	\$3,174,000.00	\$3,561,000.00

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

The amendments to the existing regulations that would impose licensing fees on these new classes of licensees are mandated by section 16(c) of the act (63 P.S. § 522(c)), so that Board revenues meet Board expenses.

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

The Board has been operating since the effective date of Act 99 by establishing internal procedures and practices to address those changes and get the new license classifications up and running as soon as possible. However, this nonregulatory alternative is not permanently acceptable because (1) Act 99 requires the promulgation of regulations to implement its provisions; (2) the absence of regulations means there is no concrete, consistent guidance available for those who would be benefited by the changes that Act 99 made; and (3) the absence of regulations interpreting and implementing Act 99 means that there is no uniform understanding of all of the changes Act 99 made and how they will impact licensees, clients of licensees, and potential licensees. In the void, confusion and rumor about what Act 99 means may abound in the regulated community.

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

Because the statute mandates the promulgation of regulations to implement the changes or additions to the Law made by Act 99, and because the balance of the proposal basically amends or clarifies existing regulations, 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?

Eleven states, including Maryland and Connecticut, require no licensure or training for natural hair braiders to practice. Nine states require natural hair braiders to obtain a specialized license based on reduced training requirements compared to full cosmetology licenses. These include Virginia (170 hours of training), Ohio (450 hours of training), and New York (300 hours of training). The remaining states require either a cosmetology license or 1000 or more hours of training in order for natural hair braiders to lawfully practice. This includes West Virginia, New Jersey, and Delaware.

Act 99, as implemented by these regulations, requires natural hair braider licensees who obtain their licenses without examination to obtain 150 hours of training in order to renew at the first biennial renewal period after they receive their licenses. Additionally, individuals desiring to obtain a natural hair braider license after examination must complete 300 hours of training. From all of this information, the regulation would not appear to 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 regulations will not affect existing or proposed regulations of any 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 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.

All existing application forms will have to be modified to reflect the changes in terminology that Act 99 made and that the regulation implements. Also, permanent application and license formats will have to be developed for natural hair braider applicants/licensees, natural hair braiding salon applicants/licensees, limited license teacher applicants/licensees, and for the temporary licenses that all classes of licensees are now able to obtain prior to taking and passing the applicable examinations.

There will also need to be an application form developed for licensing natural hair braiders without examination, since Act 99 permits the licensing of natural hair braiders without examination for one year after these regulations become effective. After that one year expires, however, such application forms would no longer be needed.

Applications for school licensure will have to be updated to reflect the change in the regulations that broadens the definition of what constitutes acceptable work experience for a proposed school supervisor.

The Board will have to add the new license classes of natural hair braider, natural hair braiding salon, and limited license teachers to its electronic recordkeeping system and to the license information accessible on its website.

The Board will have to implement a recordkeeping system to track the 150 hours of education that natural hair braider licensees are required to obtain before their first biennial renewal, in order to renew their licenses if they obtain the licenses without examination.

The Board will have to update existing inspection forms, that the Department of State inspectors utilize when inspecting salons or schools on behalf of the Board, to reflect the new natural hair braiding salon licensees and to reflect changes that the regulations would make to existing equipment and supply requirements for salon and school licensees.

(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*. Compliance with the regulation will be required on an ongoing basis, beginning with its effective date.

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

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

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

License Application – Cosmetologist, Nail Technician, Esthetician or
Natural Hair Braider: \$10.00

Estimated Biennial Revenue: \$000.00 (0,000 applications x \$10.00)

Fee Description:

The fee will be charged to every applicant who applies for licensure as a Cosmetologist, Nail Technician, Esthetician or Natural Hair Braider.

Fee Objective:

The fee should offset the identifiable costs incurred by the State Board of Cosmetology to review and process a request for licensure as a Cosmetologist, Nail Technician, Esthetician or Natural Hair Braider and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff - process application (0.20 hr)	4.44
Administrative Overhead:	<u>8.56</u>
Total Estimated Cost:	\$13.00
Proposed Fee:	\$10.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$10.00 be established for processing an application for licensure as a Cosmetologist, Nail Technician, Esthetician or Natural Hair Braider.

Application for Licensure - Cosmetologist, Nail Technician, Esthetician or Natural Hair Braider

Board staff: When obtained by examination, an electronic record of passing exam results is transmitted to board staff from test administrator. Board staff imports these records into the database to generate new licenses. When obtained by reciprocity or grandfathered clause, board staff reviews application and, with approval, manually enters records into database to generate new license. Upon generation of a new license in the computer database, a display license and wallet card are printed. Printed document is sent to the Bureau's mailing contractor for processing and mailing to licensee. The administrative overhead charge offsets expenses such as rent, phones, mailroom/microfilm services that are charged to each board based on a licensee population.

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

License Application-Cosmetology or Limited Practice Salon license: \$55.00

Estimated Biennial Revenue: \$000.00 (0,000 applications x \$55.00)

Fee Description:

The fee will be charged to every applicant who applies for licensure of a Cosmetology or Limited Practice Salon

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Cosmetology to review and process a request for licensure of a Cosmetology or Limited Practice Salon and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- process application	(1.00 hr)	22.40
BEI - inspect facility	(1.00 hr)	22.27
Administrative Overhead:		<u>8.56</u>
	Total Estimated Cost;	\$53.23
	Proposed Fee:	\$55.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$55.00 be established for processing an application for licensure of a Cosmetology or Limited Practice Salon.

Board staff: Receives application, reviews for completeness, contacts applicant to obtain any missing information and/or documents, forwards to Bureau of Enforcement and Investigation for inspection of facility. BEI conducts inspection, forwards report to board staff who issue license if requirements are met or letter of discrepancy if unmet.

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

License Application-Cosmetology or Limited Practice Teacher license: \$10.00

Estimated Biennial Revenue: \$000.00 (00 applications x \$10.00)

Fee Description:

The fee will be charged to every applicant who applies for licensure as a Cosmetology or limited license teacher.

Fee Objective:

The fee should offset the identifiable costs incurred by the State Board of Cosmetology to review and process a request for licensure of Cosmetology or Limited Practice Teacher License and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff - process application (0.20 hr)	4.44
Administrative Overhead:	<u>8.56</u>
Total Estimated Cost:	\$13.00
Proposed Fee:	\$10.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$10.00 be established for processing an application for licensure of Cosmetology or Limited Practice Teacher License.

Board staff: Receives an electronic record from test administrator of pass exam results. Board staff imports these electronic records into the computer database to generate new licenses. Upon generation of a new license, a display license and wallet care are printed. Printed document is sent to the Bureau's mailing contractor for processing and mailing to licensee. The administrative overhead charge offsets expenses such as rent, phones, mailroom/microfilm services that are charged to each board based on a licensee population.

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupation Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Cosmetology – Natural Hair Braider Biennial Renewal Fee: \$35.00

Estimated Biennial Revenue: \$000.00 (000 renewals x \$35)

Fee Description:

The fee will be charged to every applicant for renewal of their Natural Hair Braider license.

Fee Objective:

The fee should defray a portion of the operational costs of the State Board of Cosmetology.

Analysis, Comment, and Recommendation:

It is recommended that an biennial renewal fee of \$35.00 be established to renew a Natural Hair Braider license to coincide with all other Cosmetology personal licenses.

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupation Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Cosmetology or Limited Practice Salon license Annual Renewal Fee: \$60.00

Estimated Biennial Revenue: \$000.00 (000 renewals x \$60)

Fee Description:

The fee will be charged to every applicant for renewal of their Cosmetology or Limited Practice Salon license.

Fee Objective:

The fee should defray a portion of the operational costs of the State Board of Cosmetology.

Analysis, Comment, and Recommendation:

It is recommended that a biennial renewal fee of \$60.00 be established to renew a Cosmetology or Limited Practice Salon license.

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupation Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Cosmetology or Limited Practice Teacher License Biennial Renewal Fee: \$55.00

Estimated Biennial Revenue: \$000.00 (000 renewals x \$55)

Fee Description:

The fee will be charged to every applicant for renewal of their Cosmetology, Limited Practice Teacher license.

Fee Objective:

The fee should defray a portion of the operational costs of the State Board of Cosmetology.

Analysis, Comment, and Recommendation:

It is recommended that an biennial renewal fee of \$55.00 be established to renew a Cosmetology Limited License Practice Teacher license.

FEE REPORT FORM

Agency: State - BPOA Date: 11/03/06
Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs
Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Change in Cosmetology School - Inspection Required: \$110.00
Estimated Biennial Revenue: \$000.00 (000 applications x \$110.00)

Fee Description:

The fee will be charged to each applicant who requests a change to an existing license due to relocation, remodeling or some other change to the physical location.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Cosmetology to process a change application and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- process application:	(1.00 hr)	22.40
BEI - inspect facilities	(3.50 hr)	77.70
Administrative Overhead:		<u>8.56</u>
	Total Estimated Cost:	108.66
	Proposed Fee:	\$110.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$110.00 be established to process a business change application when an inspection is required.

Page 2 Change in Cosmetology School – Inspection Required:

11/03/06

Staff receives application, reviews for completeness, contacts applicant to request any missing information. Notifies BEI to request inspection to confirm compliance. BEI verifies that regulations are met, sends board office inspection results. If in compliance, board staff updates computer information and issues license.

FEE REPORT FORM

Agency: State - BPOA Date: 11/03/06
Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs
Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Change in Cosmetology School - No Inspection Required: \$35.00
Estimated Biennial Revenue: \$ 00.00 (00 applications x \$35.00)

Fee Description:

The fee will be charged to each applicant who requests change of address (post office change) or change of ownership with no change in business name or location.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Cosmetology to process a change application that does not require an inspection and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Board Staff- process application: (1.00 hr)	22.40
Administrative Overhead:	<u>8.56</u>
Total Estimated Cost:	30.96
Proposed Fee:	\$35.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$35.00 be established to process a business change application that does not require an inspection to determine compliance.

Staff receives application, reviews for completeness, contacts applicant to request any missing information. Verifies that name of school has not changed as a result of ownership change or that change of address is due to postal address reassignment and that no physical location change has taken place. Processes information through the computer and issues license.

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Change in Cosmetology or Limited Practice Salon license - No Inspection Required:
\$15.00

Estimated Biennial Revenue: \$000.00 (0 applications x \$15.00)

Fee Description:

The fee will be charged to every applicant who requests a change to an existing Cosmetology or Limited Practice Salon that does not require an inspection.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Cosmetology to review and process a request for change to an existing Cosmetology or Limited Practice Salon that does not require an inspection and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- process application (.25 hr)	5.60
Administrative Overhead:	<u>8.56</u>
Total Estimated Cost:	\$14.16
Proposed Fee:	\$15.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$15.00 be established for processing an application for change to an existing Cosmetology or Limited Practice Salon that does not require an inspection.

Change in Cosmetology or Limited Practice Salon - No Inspection Required

Board staff: Receives application, reviews for completeness, contacts applicant to obtain any missing information and/or documents, updates information on computer and issues license.

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Change in Cosmetology or Limited Practice Salon license - Inspection Required: \$55.00

Estimated Biennial Revenue: \$000.00 (000 applications x \$55.00)

Fee Description:

The fee will be charged to process a request to change an existing license (change of location, remodeling, etc.) when an inspection is required to determine compliance with requirements for a Cosmetology or Limited Practice Salon

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Cosmetology to process a request to change a Cosmetology or Limited Practice Salon license and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- process application	(1.00 hr)	22.40
BEI - inspect facility	(1.00 hr)	22.27
Administrative Overhead:		<u>8.56</u>
	Total Estimated Cost:	\$53.23
	Proposed Fee:	\$55.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$55.00 be established to process a request to change an existing Cosmetology or Limited Practice Salon license.

Board staff: receives application, reviews for completeness, contacts candidate to request any missing information and/or documents, forwards to Bureau of Enforcement and Investigation for inspection of facility. BEI conducts inspection, forwards report to board staff who update computer information and issue license if requirements are met or letter of discrepancy if unmet.

FEE REPORT FORM

Agency: State - BPOA

Date: 11/03/06

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupation Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Re-inspection of Cosmetology or Limited Practice Salon or Cosmetology School: \$40.00

Estimated Biennial Revenue: \$000.00 (00 applications x \$40.00)

Fee Description:

The fee will be charged to re-inspect a Cosmetology or Limited Practice Salon or Cosmetology School after initial failure.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Cosmetology to re-inspect a Cosmetology or Limited Practice Salon or Cosmetology School after initial failure and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- process application	(.25 hr)	5.63
BEI - inspect facility	(1.00 hr)	22.27
Administrative Overhead:		<u>8.56</u>
	Total Estimated Cost:	\$36.46
	Proposed Fee:	\$40.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$40.00 be established to re-inspect a Cosmetology or Limited Practice Salon or Cosmetology School after initial failure.

Board staff: After failure at initial inspection, applicant notifies board when deficiencies have been corrected, board forwards to Bureau of Enforcement and Investigation for inspection of facility. BEI conducts inspection, forwards report to board staff who issue license if requirements are met or letter of discrepancy if unmet. This fee will be charged each time a re-inspection is necessary to determine compliance with regulations for a new or relocated salon.

CDL-1

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(AGENCY)

BY: 
Andrew C. Clark

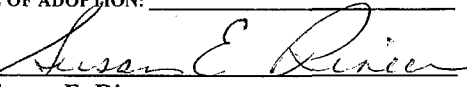
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JUN 25 2008

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: 
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.
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or objection within 30 day
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FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF COSMETOLOGY
49 PA. CODE, CHAPTER 7

GENERAL REVISIONS

The State Board of Cosmetology (Board) hereby amends Chapter 7 to read as set forth in Annex A. The rulemaking implements changes made to the act of May 3, 1933 (P.L. 242, No. 86) (act) (63 P.S. § 507 - 527), commonly referred to as the Cosmetology Law, by the act of July 7, 2006 (P.L. 704, No. 99) (Act 99), as well as updates the regulations to strengthen safety and sanitation requirements and to reflect current processes and practices utilized by the Board.

A. Effective Date

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

B. Statutory Authority

Section 11 of the act (63 P.S. § 517) authorizes the Board to promulgate regulations generally for the conduct of persons, co-partnerships, associations or corporations affected by the act. Section 16 of Act 99 requires the Board to promulgate regulations to implement Act 99.

C. Background and Need for Amendment

Act 99 made substantial changes to the act by adding a new limited license classification – the natural hair braider license; by making changes to terminology in the act; by making other changes within the act to implement the new natural hair braider license; and by extending to all limited license classes (1) the ability to practice outside of a licensed salon in a client’s residence under specified circumstances; (2) the ability to practice on a temporary license; and (3) the prohibition on booth rental within a licensed salon. These changes require corresponding changes and additions to Chapter 7.

Because the Board needed to make wholesale changes to Chapter 7 in order to implement Act 99, the Board also took the opportunity to propose a number of other changes to the regulations. Although piecemeal changes have been made to the regulations over the years, generally in response to legislative changes to the act, the Board had not undertaken an overall review and update since 1975. In the intervening period, some of the Board’s regulatory provisions have become obsolete, terms of art have changed, standards of sanitation have evolved, some of the Board’s licensing and examination processes have changed and deficiencies or errors in the regulations have become apparent. Accordingly, in this rulemaking the Board makes changes, in addition to those required by Act 99, that the Board finds necessary to update the regulations and to address the way the profession and the Board have changed since 1975.

C. Summary of Comments and the Board's Response

Notice of Proposed Rulemaking was published on August 25, 2007, at 37 Pa.B. 4628. During the public comment period, the Board received comments from the Pennsylvania Association of Private School Administrators (PAPSA), York County School of Technology (YCST), the Empire Education Group (Empire), the Pennsylvania Academy of Cosmetology Arts & Sciences, and Debbie Ralph and Lisa Hopkins, two licensed cosmetology teachers. In addition, as part of their review under the Regulatory Review Act, the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) submitted comments. The following represents a summary of the comments received and the Board's response.

HPLC comments:

The HPLC asked if there should be an accreditation provision added to the "school of cosmetology" definition. As the statute currently reads, a school of cosmetology has 5 years from its licensure date to attain accreditation. Therefore, because a school of cosmetology can exist for up to 5 years without being accredited, the Board does not believe it is appropriate to amend the definition as suggested.

The HPLC also asked for a clarification on the provision regarding the time limit for the examination. The HPLC asked if an applicant fails one portion of the cosmetology exam and cannot pass it within the prescribed 1-year time period, do they have to retake both portions of the exam and inquired as to whether there a refresher course offered? Under the circumstances posed by the HPLC, the applicant would be required to retake both portions of the exam. The Board is not aware of the existence of refresher courses.

The HPLC also asked for clarification regarding the requirement of a model for the esthetics exam. The committee asked whether the practical portion of the esthetics exam requires a live model and, if so, why does the cosmetology exam not require a live model? Applicants for the esthetics exam do need to bring a live model. The esthetics practical exam is a specialized exam and, therefore, is more detailed in the area of the human face than the cosmetology exam. It covers cleansing the face, steaming the face, manual extraction on the forehead, massaging the face, hair removal of the eyebrows, hair removal of the upper lip, application of a facial mask and facial makeup. For many of these tasks, the elasticity of human skin is needed and a mannequin is inadequate to evaluate a candidate's abilities in all of these areas. Because the cosmetology practical exam covers a much broader range of topics, including esthetics as a small portion of the exam, it includes only a basic facial, which can be adequately demonstrated on a mannequin.

The HPLC also requested clarification on the number of hours that students need before they can practice on the public. Section 7.120 (relating to work done by students on the public)

states that a school may permit students to work on the public after they have completed at least 300 hours of instruction. However, as the HPLC noted, the limited license categories require a total of 300 hours or less prior to taking the exams. Upon consideration of this comment, the Board determined that the provision intended to require cosmetology students to complete at least 300 of the 1,250 total hours of instruction (or approximately $\frac{1}{4}$ of the total hours) prior to working on the public. The Board therefore determined that esthetics students should complete at least 75 hours of instruction prior to working on the public; nail technicians would need 50 hours of instruction; and natural hair braiders would need 75 hours. Section 7.120 has been amended to reflect this determination.

IRRC comments:

IRRC suggested that the Board define "school district" to clarify the Board's intent that the term includes area vocational-technical schools and asked if there is a process for school districts to become accredited in order to comply with the requirement in § 7.113a (relating to accreditation by Nationally recognized accrediting agency). The Board intends the term school district to mean a school district, joint vocational school or department, area vocational-technical school or technical institute providing vocational education under Article 18 of the Public School Code of 1949, and has added a definition as suggested. With regard to accreditation, the Middle States Association of Colleges and Schools Commission on Secondary Education evaluates and accredits institutions providing middle and secondary education, as well as vocational-technical schools that offer non-degree granting post-secondary education. Additionally, the Pennsylvania State Board for Vocational-Technical Education is recognized by the United States Department of Education for the accreditation of public post-secondary vocational education institutions and programs offered at career and technical education institutions not offered for college credit. Therefore, school districts and area vocational-technical schools and technical institutes are able to comply with the accreditation requirement without further amendment to the regulations.

IRRC noted that under § 7.31(c) (relating to examination prerequisite for licensure; exceptions), the Board would accept evidence of prior practice as a natural hair braider without penalty for failure to comply with the licensure provisions prior to the effective date of Act 99 (September 5, 2006). IRRC recommended that the Board amend the final rulemaking to provide notice to the regulated community of the nature of these penalties. Section 2 of the act, 63 P.S. § 508 makes it unlawful for a person to practice cosmetology, esthetics, natural hair braiding or nail technology without a license. Under section 5 of the act of July 2, 1993, (P.L. 345, No. 48) (63 P.S. § 2205), the Commissioner of Professional and Occupational Affairs promulgated a schedule of civil penalties for violations of the act and regulations of the Board at 49 Pa. Code § 43b.5, which provides for the imposition of a civil penalty of \$500 for the first offense of practicing without a license, and formal administrative action for a second or subsequent offense. Therefore, the Board believes that it is not necessary to provide additional notice in this rulemaking as to the nature of the penalties for unlicensed practice. However, the Board did amend the final rulemaking to cross-reference section 2 of the act to aid clarity.

IRRC asked for a clarification of the requirement that a first time examinee complete both portions of the exam “within 1 year.” This provision is intended to require that once the examinee passes one portion of the exam, the examinee has 1 year to pass the remaining portion. If the examinee fails to do so, he or she must retake the entire exam. As a result of the apparent confusion about this requirement, § 7.32(c) (relating to deadline for examination applications) has been amended for clarity.

IRRC asked the Board for an explanation of the need for the provision in § 7.32d(d) (relating to requirements for cosmetologist examination) which requires an applicant for the cosmetology exam who holds a limited license (esthetician, nail technician or natural hair braider) seeking education credits complete the entire 1,250 hours, including those completed in the limited practice field, within 4 years. The Board does not want an applicant seeking credit for courses taken, for example, 10 years prior to applying for the exam. There must be a set time period for allowing credit for courses taken in the past. The Board determined that 4 years was a reasonable amount of time to ensure that the information was relevant and still fresh in the applicant’s mind.

IRRC noted that the existing language found at § 7.32d relating to applicants that receive training by, or under the auspices of, the Bureau of Rehabilitation in the Department of Labor and Industry is repeated in §§ 7.32e, 7.32f and 7.32h (relating to requirements for esthetician examination; requirements for nail technician examination; and requirements for natural hair braider examination). IRRC inquired as to what is meant by the phrase “under the auspices of,” The Board believes this term was intended to mean that the training was sponsored or funded by the Office of Vocational Rehabilitation within the Department of Labor and Industry. In responding to this comment, the Board determined that the current entity within the Department of Labor and Industry that provides vocational training to persons with disabilities is the Office of Vocational Rehabilitation. Therefore, the final-form rulemaking has been amended.

IRRC asked the Board to clarify the language in § 7.41(b) (relating to display of licenses) which requires that “[a]n individual license shall be readily available for inspection” IRRC was unclear if the language referred to the salon owner’s license, the license of an individual working in the salon, or both. A salon owner may or may not hold an individual license. The amended language was intended to convey a change in policy. Prior to these amendments, all licenses had to be conspicuously displayed, both facility licenses (for salons and schools) and individual licenses, as set forth in § 7.11 (relating to types of individual licenses). Under the amendments, anyone holding an individual license (cosmetology teacher, limited practice teacher, cosmetologist, esthetician, nail technician or natural hair braider) is no longer required to display the individual license, but to merely make sure that the license is available for inspection by the public or a representative of the Board at the salon or school where the individual licensee works. In considering this comment, the Board realized that the rulemaking failed to address school licenses, and has amended § 7.41 by adding a subsection (c) to address school licenses.

IRRC also requested clarification of the requirement under § 7.43(c) (relating to expiration and renewal of licenses) that natural hair braiders provide proof of meeting the education requirement set forth in section 5(b)(3)(ii)(C) of the act within 2 years of initial licensure. IRRC would like to know what kind of proof is necessary. In general, the Board requires an official school transcript from a licensed school of cosmetology as proof of education for all categories of licensees, and expects that the same would be required here. As a result of IRRC's comment, this section was amended to provide examples of the type of documentation that would be acceptable as proof of meeting the education requirement.

IRRC also noted that under § 7.94 (relating to sanitary use of supplies), spatulas and other utensils may not come into contact with the skin or hair. IRRC asked how can it be possible for a tool to avoid contact with the hair? This section has been amended to clarify that the tool may not come into contact with the skin or hair of another client until the tool has been properly disinfected.

Under § 7.111 (relating to application for school license), IRRC noted that the terms "satisfactory experience" and "satisfactory work experience" are vague and asked the Board to specify the type of experience that would be considered acceptable. In response, the Board has amended the final-form rulemaking to delete the vague terminology and to clarify that a school supervisor must have 1,250 hours of experience as a cosmetology teacher and 1,800 hours of experience working as the designated person in charge of a cosmetology salon.

Under § 7.120 (relating to work done by students on public), there was concern expressed by IRRC, as well as all stakeholders that responded to public comment, in reference to the language restricting cosmetology schools from charging for student services only the reasonable cost of materials used on the client only. After re-examining this language, the Board chose to modify this language to state that the school may charge a fee for student services based on reasonable cost of materials used in such treatment. The Board believes the intent of section 7 of the act, 63 P.S. § 513, is to preclude a school from charging for the student's labor or otherwise profiting from the clinical work of its students. Therefore, it is reasonable to interpret this section as permitting a school to recoup its costs in providing these services to the public.

Also, like the HPLC, IRRC requested clarification on the number of hours that limited-license holders need before they can practice on the public. In response, the final-form rulemaking was amended as described above.

Public comments:

The Pennsylvania Association of Private School Administrators (PAPSA) provided comments on behalf of the following cosmetology schools: Beaver Falls Beauty Academy, Kittanning Beauty School, New Castle Beauty School, Butler Beauty School, Laurel Business

Institute, 19 Empire Beauty Schools, Pruonto's Hair Design, DeRielle Designworks Academy, Altoona Beauty School, Jean Madeline Education Center, Lancaster School of Cosmetology, Bucks County School of Beauty Culture, Venus Beauty Academy, Douglas Beauty Center, Penn Commercial, 4 McCann Schools of Business, Pennsylvania Beauty Academy, and Punxy Beauty School. The Board also received comments from the Empire Education Group (Empire), York County School of Technology (YCST), the Pennsylvania Academy of Cosmetology Arts & Sciences, and two licensed cosmetology teachers. The following discussion groups similar comments under the relevant section heading.

§ 7.1 (relating to definitions)

PAPSA commented that the definition of esthetics is incomplete and asked that the terms "eyelash perming" and "the use of industry standard mechanical and electrical apparatus" be added to the definition of Esthetics. The Board amended the definition to address PAPSA's concerns. PAPSA also noted that the definition of natural hair braider should include "cut" as an exclusion, thereby clarifying that natural hair braiders are not permitted to cut hair. The Board has made the suggested amendment.

Cosmetology teacher Lisa Hopkins asked if natural hair braiding included the application of heat from a straightening comb or ceramic iron in order to prepare the hair for weaving purposes. The Board considered this question and determined that natural hair braiding would include the use of such appliances, and has amended the definition to clarify this issue.

Cosmetology teacher Debbie Ralph questioned the definition of esthetics. The definition of esthetics is set forth by statute and, while the Board may clarify the definition by regulation, it may not change or expand the definition.

§ 7.31 (relating to examination prerequisite for licensure; exceptions)

PAPSA and Empire were unclear as to what constituted acceptable proof of 3 years work experience for "grandfathered" hair braiders. The Board believes that the statute and regulations are clear. An individual seeking licensure as a natural hair braider without examination must produce tax records that demonstrate employment in the natural hair braiding profession for 3 consecutive years immediately prior to the date of application for licensure, as well as an affidavit from the applicant and the applicant's immediate supervisor, where applicable. The form of the required affidavit is provided on the natural hair braider application.

§§ 7.32 and 7.35 (relating to deadline for examination applications; and failure of examination)

PAPSA and Empire asked what the consequences were for not non-compliance with the provision that requires applicants to take and pass both portions of an exam within 1 year. As discussed previously, the Board intends these provisions to require that an applicant pass both

portions of the exam within 1 year of passing the first portion of the exam. If both portions of the exam are not taken and passed within a 1-year period, the applicant will have to take both portions again until the applicant is successful. There are no sanctions or refresher courses being imposed by the Board. The consequence is that the Board simply will not license an applicant until the applicant meets this requirement.

§ 7.32d (relating to requirements for cosmetologist examination)

PAPSA was unclear as to when a school may accept transfer hours from a student and asked the Board to clarify the language in § 7.32d. PAPSA asked how a school could award transfer hours to someone with a limited license who has not practiced in 4 or 5 years or to someone who received a license 10 – 15 years ago and have only practiced sporadically or how a school could transfer hours to someone that cannot pass a school administered practical or theory exam? The Board did not intend by this language to mandate that schools accept all transfer hours from limited licensees. As noted previously, subsection (d) requires all 1,250 hours, including those hours completed for a limited license, be completed within 4 years. Subsection (c) is intended to provide credit for recently-acquired education credits. PAPSA recommended that the Board modify the current language so that it reads that an applicant will be given credit for “up to X hours”. The Board agreed and has made this amendment to the final-form rulemaking.

Debbie Ralph suggested that because the nail technology and esthetics curricula should be the same as that covered in the cosmetology curriculum, schools should be permitted to grant credit for all of the coursework completed by licensed estheticians or nail technicians, if the school wishes. This, she notes, is especially true for schools that teach all three curricula. A student should be able to transfer all 200 or 300 hours when switching to the cosmetology curriculum. The Board considered this comment, but determined that no change would be made to the rulemaking. Not all schools teach exactly the same curricula. The Board determined that it would grant credit for recently-acquired courses that teach the skills which are also taught in the cosmetology curriculum.

§ 7.32h (relating to requirements for natural hair braider examination)

Debbie Ralph suggested that § 7.32h is unclear as to whether an individual needs a 10th grade education or be 16 years of age, or both. The Board believes the statute and the regulation are clear. An applicant for the natural hair braider examination must be 16 years of age or older. In addition, the applicant must have completed a 10th grade education or its equivalent, or received training from the Office of Vocational Rehabilitation (OVR), unless the applicant is a veteran or is 35 years of age or older. If the applicant is a veteran or is 35 years of age or older, there is no inquiry into whether the individual completed a 10th grade education or received training from OVR. Finally, the individual must have completed 300 hours of training in natural hair braiding at a licensed school of cosmetology.

§ 7.34 (relating to models for practical portion of examination)

Empire suggested that the Board clearly state that live models are only required for the esthetics exam and that mannequins are acceptable for other exams. The Board has amended the final-form rulemaking to clarify this issue.

§ 7.41(b)(relating to display of licenses)

Empire suggested that the Board clarify that all individual licenses, including those applicable to schools, do not have to be displayed but rather readily available for inspection. Empire also pointed out that subsection (a) only refers to salons, and it could be construed as only applicable to individuals licensed and working in salons. The Board believes that the amendments to this section clarify the Board's intent discussed previously. Salon and school licenses must be displayed conspicuously. Individual licenses (cosmetology teacher, limited practice teacher, cosmetologist, esthetician, nail technician or natural hair braider) must be readily available for inspection at the salon or school, as applicable.

§ 7.43(c) (relating to expiration and renewal of licenses)

PAPSA raised concerns that there were no sanctions for natural hair braiders that fail to comply with the required 150 hours of education within 2 years of initial licensure. Because the statute makes this a requirement of renewal of a license, the license of any "grandfathered" natural hair braider who fails to complete the 150 hours will not be renewed. In addition, violation of this provision of the statute and regulations will result in disciplinary action under section 13 of the act, 63 P.S. § 519, which authorizes the Board to refuse, revoke, refuse to renew or suspend a license on proof on a violation of any of the provisions of the act or the rules and regulations established by the Board.

Lisa Hopkins, a cosmetology teacher, commented that the "grandfathered" natural hair braiders should need to demonstrate skills in locking and weaving as part of the 150 hours of training to be completed during the first 2 years of licensure. The Board considered this comment and agreed that, at a minimum, grandfathered natural hair braiders should complete 25 hours of locking and weaving as part of the 150 hours and has made amendments to this section to accommodate this change.

§ 7.71 (relating to equipment and supplies for a cosmetology salon)

Debbie Ralph stated that the Milady textbook teaches that putting tools in an airtight container will ruin them. The Board notes that nowhere does the Board require tools be stored in an airtight container.

§ 7.71c. (relating to equipment and supplies for a natural hair braiding salon)

Lisa Hopkins raised concerns that the equipment requirements for a hair braiding salon could be financially burdensome in requiring multiple shampoo bowls or basins for more than one braider. The regulations provide for the minimum equipment necessary for one hair braider and require that for each additional hair braider, equipment and supplies be increased such that each natural hair braider can render services safely and efficiently. This issue can be addressed on an individual, case-by-case basis as the salon is inspected.

§ 7.111 (relating to application for a school license)

Debbie Ralph asked if the school supervisor is “back to having a cosmetology license.” The Board notes that § 7.111(a)(2)(i) requires a school supervisor to hold a cosmetology teacher license.

§ 7.120 (relating to work done by students on public)

PAPSA, Empire, the Pennsylvania Academy of Cosmetology Arts & Sciences, and Debbie Ralph were also concerned that restricting cosmetology schools in charging for student services to only the reasonable cost of materials used on the client would have a severe impact on students, schools and salons. After re-examining this language, the Board chose to modify this language to state that the school may charge for student services based on reasonable costs of materials, as previously discussed. The Board believes the intent of section 7 of the act, 63 P.S. § 513, is to preclude a school from charging for the student’s labor or otherwise profiting from the clinical work of its students. Therefore, it is reasonable to interpret this section as permitting a school to recoup its costs in providing these services to the public.

Empire and Lisa Hopkins also commented on the provision requiring a student to complete 300 hours of training prior to being permitted to work on the public. As discussed above, the Board agrees with their analysis that this provision clearly was intended to refer only to cosmetology students and has amended the rulemaking to permit students of esthetics and natural hair braiding to work on the public with 75 hours of training, and students of nail technology to begin working on the public after 50 hours of training.

§ 7.129 (relating to curriculum requirements)

PAPSA stated that the current language in § 7.129 which states that the cosmetology curriculum “must” comprise 1,250 hours, is too restrictive in that many programs require more than 1,250 hours because of degree requirements and other reasons. PAPSA suggested that this be changed to read “a minimum of” 1,250 hours. The Board agreed and has amended each of the curricula requirements (cosmetology, esthetics, nail technology and natural hair braiding) to clarify that the Board is establishing minimum standards.

YCST made some recommendations for altering the language under the basic cosmetology curriculum relating to cosmetology skills – cognitive and manipulative. The Board has amended this section to include conditioning, chemical texturizing and makeup, as suggested.

In addition, YCST asked if it is still necessary for the teacher curriculum to have salon management theory since the recent change eliminating the cosmetology manager’s license and because the cosmetologist curriculum already covers business practices. The Board believes it is necessary to continue to include salon management theory in the teacher curriculum because salon management theory goes beyond basic business practices. With the elimination of the cosmetology manager’s license, any cosmetologist could be placed in responsible charge of a salon. Therefore, cosmetology teachers must be knowledgeable in salon management theory in order to prepare cosmetologists for this role.

YCST asked whether business practices should be covered under the esthetics, nail technology and natural hair braiding curricula. The Board has determined that similar material is taught under the “professional practices” portion of these curricula, and therefore, has made no change to the regulations based on this comment.

Lisa Hopkins raised concerns about existing cosmetology teachers lacking skills in the manipulative skills of braiding, locking or weaving, and may not be qualified to teach the natural hair braiding curriculum. The Board notes that it is each individual cosmetology school’s responsibility to assure that their faculty is qualified.

D. Description of Amendments to Final Rulemaking

§ 7.1 (relating to definitions)

The Board amended the definition of esthetics to clarify that it includes eyelash perming and the use of industry standard mechanical and electrical apparatus and appliances in the practice of the profession. The Board also amended the definition of natural hair braiding to clarify that the term includes the application of heat by the use of a straightening comb, ceramic

iron or similar appliance to prepare the hair for manipulation; and that it does not include cutting the hair. Finally, the Board added a definition of school district to clarify that the term is intended to include any school district, joint vocational school or department, area vocational-technical school or technical institute that provides vocational education under Article 18 of the Public School Code of 1949.

§ 7.31 (relating to examination prerequisites for licensure; exceptions)

The Board amended § 7.31(c) to add a cross reference to section 2 of the act, 63 P.S. § 508, which makes it unlawful for a person to practice cosmetology, esthetics, natural hair braiding or nail technology without a license, in order to clarify the Board's intent to forego prosecution of any unlicensed practice by natural hair braiders that occurred prior to the effective date of Act 99 of 2006, which created the separate licensure classification for natural hair braiders.

§ 7.32 (relating to deadline for examination applications)

The Board amended § 7.32(c) to clarify that both the theoretical and practical portions of the exam must be passed within 1 year of the date the first portion is passed.

§ 7.32b (relating to requirements for teacher examinations)

The Board amended § 7.32b(a)(4) and (b)(4) to clarify that applicants for the teacher exam must have completed "a minimum of" 500 hours of instruction in a teacher curriculum prior to taking the exam.

§ 7.32d (relating to requirements for cosmetologist examination)

The Board corrected the reference to the Office of Vocational Rehabilitation in the Department of Labor and Industry. In addition, the Board amended this section to clarify that the cosmetology education is "a minimum of" 1,250 hours of instruction. The Board also amended subsection (c) to clarify that an applicant for the cosmetologist exam that already holds an active esthetician license issued by the Board may obtain credit for "up to" 160 hours toward the total 1,250 hours required for a cosmetology license; a licensed nail technician may obtain credit for "up to" 100 hours; and a licensed natural hair braider may obtain credit for "up to" 125 hours.

§ 7.32e (relating to requirements for esthetician examination)

The Board corrected the reference to the Office of Vocational Rehabilitation in the Department of Labor and Industry and amended the section to clarify that the esthetician education is "a minimum of" 300 hours of instruction.

§ 7.32f (relating to requirements for nail technician examination)

The Board corrected the reference to the Office of Vocational Rehabilitation in the Department of Labor and Industry and amended the section to clarify that the nail technician education is “a minimum of” 200 hours of instruction.

§ 7.32h (relating to requirements for natural hair braider examination)

The Board corrected the reference to the Office of Vocational Rehabilitation in the Department of Labor and Industry and amended the section to clarify that the natural hair braider education is “a minimum of” 300 hours of instruction.

§ 7.34 (relating to models for practical portion of examination)

The Board amended this section to clarify that only the practical portion of the esthetics examination requires a live model. All other exams require the use of a mannequin.

§ 7.41 (relating to display of licenses)

The Board added subsection (c) to address the display of school licenses.

§ 7.43 (relating to expiration and renewal of licenses)

The Board amended subsection (c) to require that a “grandfathered” natural hair braider must complete only 50 hours in scalp care and 25 hours in locking and weaving as part of the 150 hours that is required to be completed as a condition of renewal of a license. The Board also amended subsection (c) to clarify the types of documentation that would be acceptable as proof of meeting the education requirements.

§ 7.94 (relating to sanitary use of supplies)

The Board amended subsection (c) to clarify that the utensils may not be permitted to come into contact with the skin or hair of another client until they are properly disinfected.

§ 7.111 (relating to application for a school license)

The Board amended subsection (a)(2) to clarify that a school supervisor must have acquired 1,250 hours of experience as a cosmetology teacher and 1,800 hours of experience as the designated person in charge of a cosmetology salon.

§ 7.120 (relating to work done by students on the public)

The Board amended subsection (a) to clarify that the school may charge a fee that reflects the reasonable cost of materials used in the treatment of clients. The Board believes the intent of section 7 of the act, 63 P.S. § 513, is to preclude a school from charging for the student's labor or otherwise profiting from the clinical work of its students. Therefore, it is reasonable to interpret this section as permitting a school to recoup its costs in providing these services to the public. In addition, the Board clarified that cosmetology students must complete at least 300 hours of instruction prior to working on the public; esthetics students must complete at least 75 hours of instruction to work on the public; nail technology students must complete at least 50 hours of instruction to work on the public; and natural hair braiding students must complete at least 75 hours of instruction to work on the public.

§ 7.129 (relating to curriculum requirements)

The Board amended this section to clarify that the each of the curricula requirements establish minimum requirements. The Board also amended the cosmetology curriculum to include conditioning, chemical texturizing, and makeup.

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)), the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 4628, on August 25, 2007, to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC) for review and comment.

In compliance with section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Board also provided IRRC, SCP/PLC, and HPLC with copies of comments received as well as other documents when requested. In preparing the final-form regulation, the Board has considered the comments received from IRRC, the HPLC, and the public.

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

H. Contact Person

Further information may be obtained by contacting C. William Fritz, II, Board Counsel, State Board of Cosmetology, P.O. Box 2649, Harrisburg, PA 17105-2649.

I. Findings

The State Board of Cosmetology 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, 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) The amendments to the final form rulemaking do not enlarge the purpose of proposed rulemaking published at 37 Pa.B. 4628.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified this Preamble.

J. Order

The State Board of Cosmetology, acting under its authorizing statutes, 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 on 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

GENERAL PROVISIONS

§ 7.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * *

Board—The State Board of Cosmetology [of the Commonwealth].

Booth space—[Any area in a cosmetology shop, cosmetician shop or manicurist shop separated or not separated which is designated to be used by a licensed teacher, cosmetologist, cosmetician or manicurist.] The area of a salon in which a licensed cosmetologist or a holder of a limited license provides to a client a service for which a license is required under the act.

Braiding—Intertwining the hair in a systematic motion to create patterns in a three-dimensional form, inverting the hair against the scalp along part of a straight or curved row of intertwined hair, or twisting the hair in a systematic motion, including extending the hair with natural or synthetic hair fibers.

Bureau—The Bureau of Professional and Occupational Affairs [of the Commonwealth] in the Department of State.

Cosmetologist—A licensed individual who is engaged in the practice of cosmetology.

Cosmetology—

(i) Any or all work done for compensation by any person, which work is generally and usually performed by cosmetologists, which work is for the embellishment, cleanliness and beautification of the human hair, such as arranging, braiding, dressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, pressing, or similar work thereon and thereabout, and the removal of superfluous hair, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work upon the scalp, face, arms or hands, or the upper part of the body, by the use of mechanical or electrical apparatus or appliances or cosmetics, preparations, tonics, antiseptics, creams or lotions, or by any other means, and of manicuring the nails, which enumerated practices shall be inclusive of the term cosmetology but not in limitation thereof.

(ii) The term also includes the acts comprising the practice of nail technology, natural hair braiding and esthetics.

Department—The Commissioner of Professional and Occupational Affairs in the Department of State.

Esthetics—

(i) The practice of massaging the face, applying cosmetic preparations, antiseptics, tonics, lotions or creams to the face, removing superfluous hair by tweezers, depilatories or waxes, EYELASH PERMING, and the dyeing of eyelashes and eyebrows.

(ii) THE TERM INCLUDES THE USE OF INDUSTRY STANDARD MECHANICAL AND ELECTRICAL APPARATUS AND APPLIANCES IN THE PRACTICE OF ESTHETICS.

Esthetician—An individual licensed by the Board to practice esthetics.

Lavatory—A working toilet and a working sink with hot and cold running water that are located in a separate room that affords privacy to the user.

Limited license—A license issued by the Board to an individual which permits that individual to engage in the practice of esthetics, natural hair braiding or nail technology.

Limited practice salon—A salon licensed by the Board for the provision of esthetician services, nail technology services or natural hair braiding services only.

Limited practice teacher—A teacher licensed by the Board for the purpose of providing instruction in the area of esthetics, nail technology or natural hair braiding only.

[Manicuring—Work or maintenance done to the nail or cuticle of the hands or the feet for cosmetic purposes including, and limited to, filing, polishing, coating, nipping, shaping, sculpturing and applying artificial tips and other extensions. The term does not include the removal of corns and callouses but does include the removal of thin, dry skin for cosmetic purposes with a pumice stone or similar nonmetal instrument.]

Nail technician—An individual licensed by the Board to engage in the practice of nail technology.

Nail technology—The practice of manicuring the nails of an individual, applying artificial or sculptured nails to an individual, massaging the hands of an individual or massaging the lower arms of an individual up to the individual's elbow, massaging the feet of an individual or the lower legs of an individual up to the individual's knee, or a combination of these acts.

Natural hair braider—An individual licensed by the Board to engage in the practice of natural hair braiding.

Natural hair braiding—

(i) The practice of utilizing techniques that result in tension on hair roots of individuals, such as twisting, wrapping, weaving, extending, locking or braiding of the hair. THE TERM INCLUDES THE APPLICATION OF HEAT BY THE USE OF A STRAIGHTENING COMB, CERAMIC IRON OR SIMILAR APPLIANCE TO PREPARE THE HAIR FOR MANIPULATION.

(ii) The term does not include CUTTING THE HAIR OR the application of dyes, reactive chemicals or other preparations to alter the color or to straighten, curl or alter the structure of hair.

School of cosmetology—Any individual, partnership, association, business corporation, nonprofit corporation, municipal corporation, school district or any group of individuals however organized whose purpose is to provide courses of instruction in cosmetology or the teaching of cosmetology.

SCHOOL DISTRICT—A SCHOOL DISTRICT, JOINT VOCATIONAL SCHOOL OR DEPARTMENT, AREA VOCATIONAL-TECHNICAL SCHOOL OR TECHNICAL INSTITUTE PROVIDING VOCATIONAL EDUCATION UNDER ARTICLE XVIII OF THE PUBLIC SCHOOL CODE OF 1949, 24 P.S. §§ 18-1801 – 18-1855.

Tanning units—Equipment that utilizes ultraviolet light for the purpose of cosmetic tanning.

§ 7.2. Fees.

Fees charged by the Board are as follows:

Licensure of cosmetologist, [manicurist or cosmetician] nail technician, esthetician or natural hair braider \$10

Licensure of cosmetology teacher or limited practice teacher \$10

Licensure of cosmetology [shop, manicurist shop or cosmetician shop] salon or limited practice salon. \$55

* * *

Biennial renewal of [manicurist's] nail technician license \$35

Biennial renewal of [cosmetician's] esthetician license \$35

Biennial renewal of [cosmetologist's] cosmetologist license \$35

Biennial renewal of natural hair braider license. \$35

Biennial renewal of cosmetology [teacher's] teacher or limited practice teacher license \$55

Biennial renewal of cosmetology [shop's] salon or limited practice salon license \$60

[Biennial renewal of cosmetician or manicurist shop's license. \$60]

Biennial renewal of cosmetology [school's] school license \$150

* * *

Change in cosmetology[, cosmetician or manicurist shop] salon or limited practice salon (inspection required). \$55

Change in cosmetology[, cosmetician or manicurist shop] salon or limited practice salon (no inspection required). \$15

Change in cosmetology school (inspection required). \$110

Change in cosmetology school (no inspection required). \$35

Reinspection of cosmetology[, cosmetician or manicurist shop] salon or limited practice salon or cosmetology school. \$40

* * * * *

INDIVIDUAL LICENSES

§ 7.11. Types of individual licenses.

The following [license] licenses are issued by the Board to qualified individuals under the act:

(1) [Teacher] Cosmetology teacher.

(2) Limited practice teacher.

(3) Cosmetologist.

[(3) Cosmetician] (4) Esthetician.

[(4) Manicurist] (5) Nail technician.

(6) Natural hair braider.

§ 7.12. Scope of [teacher's] cosmetology teacher license.

An individual holding a [teacher's] cosmetology teacher license is qualified, without further licensure, to perform the functions of a teacher, cosmetologist, [cosmetician or manicurist] esthetician, nail technician or natural hair braider.

§ 7.12a. Scope of limited practice teacher license.

(a) An individual holding a limited practice teacher license in esthetics is qualified, without further licensure, to teach esthetics in a licensed school of cosmetology and to perform the functions of an esthetician.

(b) An individual holding a limited practice teacher license in nail technology is qualified, without further licensure, to teach nail technology in a licensed school of cosmetology and to perform the functions of a nail technician.

(c) An individual holding a limited practice teacher license in natural hair braiding is qualified, without further licensure, to teach natural hair braiding in a licensed school of cosmetology and to perform the functions of a natural hair braider.

* * * * *

§ 7.14. Scope of [cosmetologist's] cosmetologist license.

An individual holding a [cosmetologist's] cosmetologist license is qualified, without further licensure, to perform the functions of a cosmetologist, [cosmetician or manicurist] esthetician, nail technician or natural hair braider.

§ 7.14a. Scope of [cosmetician's] esthetician license.

An individual holding [a cosmetician's] an esthetician license is qualified to perform [cosmetician] esthetician services only.

§ 7.15. Scope of [manicurist's] nail technician license.

An individual holding a [manicurist's] nail technician license is qualified to perform [manicuring] nail technology services only.

* * * * *

§ 7.17. Scope of natural hair braider license.

An individual holding a natural hair braider license is qualified to perform natural hair braiding services only.

EXAMINATIONS

§ 7.31. Examination prerequisite for licensure; [exception] exceptions.

(a) Except as provided in [subsection] subsections (b) and (c), an individual who wants to obtain a [teacher's, cosmetologist's, cosmetician's or manicurist's] cosmetology teacher, limited practice teacher, cosmetologist, esthetician, nail technician or natural hair braider license listed in §§ 7.12—[7.15]7.17 shall pass the examination required by the Board for that license.

* * * * *

(c) Until _____ (Editor's note: The blank refers to a date 1 year after the effective date of adoption of this rulemaking), the Board will issue a natural hair braider license to an applicant who does the following:

(1) Submits the application adopted by the Board.

(2) Pays the required licensing fee in § 7.2 (relating to fees).

(3) Provides proof that the applicant has practiced natural hair braiding for 3 consecutive years immediately prior to the date of the application for licensure.

(i) Proof of practice requires that the applicant provide tax records of employment and an affidavit from the applicant and the applicant's immediate supervisor, where applicable, verifying the applicant's practice of natural hair braiding for 3 consecutive years immediately prior to the date of the licensure application.

(ii) The Board will accept the information provided AND WILL IMPOSE NO ~~without penalty to~~ UPON the applicant for failure to comply with the licensing provisions SET FORTH IN SECTION 2 OF THE COSMETOLOGY LAW, 63 P.

S. § 508, THAT THE APPLICANT COMMITTED prior to September 5, 2006,
WHICH IS the effective date of the act of July 7, 2006 (P.L. 704, No. 99).

§ 7.31a. Examination dates and locations.

Licensing examinations are given [on the third Tuesdays of January, April, July and October]monthly in Philadelphia, Pittsburgh, [Wilkes-Barre,]Harrisburg and [Erie]additional locations established by the examination administrator after consultation with the Board.

§ 7.32. Deadline for examination applications.

(a) The [deadlines] deadline for submitting an examination [applications are as follows:

<i>Examination date</i>	<i>Deadline for First-time examinees</i>	<i>Deadline for Reexaminees</i>
3rd Tuesday in January	December 1	December 10
3rd Tuesday in April	March 1	March 10
3rd Tuesday in July	June 1	June 10
3rd Tuesday in October	September 1	September 10]

application is 1 month prior to the testing date for the specific location where the applicant intends to take the exam, a date established by the examination administrator.

* * *

(c) A first-time examinee must complete and pass both the theoretical and practical portions of the exam within 1 year OF THE DATE THE FIRST PORTION IS PASSED.
If the exam provider changes, the Board retains discretion to grant exceptions to this 1-year requirement in order to facilitate the transition from one exam provider to another.

§ 7.32a. Contents of examination application.

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

- (1) Proof of having met the requirements for the examination applied for as set forth in §§ 7.32b—7.32[f]h.

* * * * *

§ 7.32b. Requirements for [teacher's examination] teacher examinations.

(a) An applicant for the [teacher's] cosmetology teacher examination shall:

* * *

- (3) Possess a current [cosmetologist's] cosmetologist license.
- (4) Have completed A MINIMUM OF 500 hours of instruction in a cosmetology teacher curriculum [in] provided by a licensed school of cosmetology.

(b) An applicant for the limited practice teacher examination in esthetics, nail technology or natural hair braiding shall:

- (1) Be 18 years of age or older.
- (2) Have completed a 12th grade education or its equivalent.
- (3) Possess a current limited license in the relevant limited practice field.
- (4) Have completed A MINIMUM OF 500 hours of instruction in a cosmetology teacher or limited practice teacher curriculum provided by a licensed school of cosmetology.

(c) An applicant who has already obtained a limited practice teacher license in one of the limited practice fields and desires to obtain a limited practice teacher license in an additional limited practice field shall:

- (1) Meet the requirements in subsection (b) for the additional limited practice field.
- (2) Successfully complete the practical portion of the teacher examination for the additional limited practice field in which the applicant desires to become a licensed teacher.

* * * * *

§ 7.32d. Requirements for [cosmetologist's] cosmetologist examination.

- (a) An applicant for the [cosmetologist's] cosmetologist examination who holds no limited licenses shall:

* * *

- (2) Except as provided in subsection (b), have done one of the following:

* * *

- (ii) Received training from or under the auspices of the ~~Bureau of~~ OFFICE OF VOCATIONAL Rehabilitation in the Department of Labor and Industry.

- (3) Have done one of the following:

- (i) Completed A MINIMUM OF 1,250 hours of instruction in cosmetology, within a period of not less than 8 consecutive months, as a day-time student in a licensed school of cosmetology.

- (ii) Completed A MINIMUM OF 1,250 hours of instruction in cosmetology, within a period of not less than 15 consecutive months, as a night-time student in a licensed school of cosmetology.

* * *

(c) An applicant for the cosmetologist examination who holds one or more active limited licenses issued by the Board and who obtained educational credits through a licensed cosmetology school will be given credit for the number of educational hours obtained to qualify for the active limited license or licenses as follows:

(1) An applicant who holds an active esthetician license will be given credit for UP TO 160 hours toward the total cosmetology training program of 1,250 hours.

(2) An applicant who holds an active nail technician license will be given credit for UP TO 100 hours toward the total cosmetology training program of 1,250 hours.

(3) An applicant who holds an active natural hair braider license will be given credit for UP TO 125 hours toward the total cosmetology training program of 1,250 hours.

(d) An applicant seeking credit for educational credits under subsection (c) shall complete the total of 1,250 cosmetology training hours, including those already completed in the limited license practice field for which the applicant is seeking credit, within 4 consecutive years.

§ 7.32e. Requirements for [cosmetician's]esthetician examination.

(a) An applicant for the [cosmetician's]esthetician examination shall [have]:

(1) Be 16 years of age or older.

(2) Except as provided in subsection (b), have done one of the following:

(i) Completed a 10th grade education or its equivalent.

(ii) Received training from or under the auspices of the ~~Bureau~~ of OFFICE OF VOCATIONAL Rehabilitation in the Department of Labor and Industry.

(3) Have completed A MINIMUM OF 300 hours of instruction in skin care in a licensed school of cosmetology.

(b) Subsection (a)(2) does not apply to an applicant who is one of the following:

(1) A veteran.

(2) Thirty-five years of age or older.

§ 7.32f. Requirements for [manicurist's]nail technician examination.

(a) An applicant for the [manicurist's]nail technician examination shall [have]:

(1) Be 16 years of age or older.

(2) Except as provided in subsection (b), have done one of the following:

(i) Completed a 10th grade education or its equivalent.

(ii) Received training from or under the auspices of the ~~Bureau of~~ OFFICE OF VOCATIONAL Rehabilitation in the Department of Labor and Industry.

(3) Have completed A MINIMUM OF 200 hours of instruction in [manicuring]nail technology in a licensed school of cosmetology.

(b) Subsection (a)(2) does not apply to an applicant who is one of the following:

(1) A veteran.

(2) Thirty-five years of age or older.

§ 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] cosmetologist examination or to any limited license examination and who pays the examination fee set by the professional testing

organization and the license 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.

(b) A temporary license is valid for 9 months[or until the next examination, whichever comes first].

(c) The holder of a temporary [cosmetologist's] cosmetologist license shall practice under the supervision of a licensed cosmetology teacher or cosmetologist. The holder of a temporary [manicurist's] limited license shall practice under the supervision of a licensed cosmetology teacher, [or] cosmetologist, limited practice teacher in the corresponding limited practice field or holder of a corresponding limited license.

§ 7.32h. Requirements for natural hair braider examination.

(a) An applicant for the natural hair braider examination shall:

(1) Be 16 years of age or older.

(2) Except as provided in subsection (b), have done one of the following:

(i) Completed a 10th grade education or its equivalent.

(ii) Received training from or under the auspices of the ~~Bureau of~~ OFFICE OF VOCATIONAL Rehabilitation in the Department of Labor and Industry.

(3) Have completed A MINIMUM OF 300 hours of board-approved subject relating to sanitation, scalp care, anatomy and natural hair braiding in a licensed school of cosmetology.

(b) Subsection (a)(2) does not apply to an applicant who is one of the following:

(1) A veteran.

(2) Thirty-five years of age or older.

* * * * *

§ 7.34. Models for practical portion of examination.

An examinee taking the practical part of [an] the esthetics examination shall bring with him a LIVE model. AN EXAMINEE TAKING THE PRACTICAL PART OF ANY OTHER EXAM SHALL BRING A MANNEQUIN.

§ 7.35. Failure of examination.

An examinee who fails either the practical or theoretical part of the examination for a cosmetology teacher, limited practice teacher, cosmetologist, [cosmetician or manicurist] esthetician, nail technician or natural hair braider license will be required to retake and pass the failed portion of the examination within 1 year of the date the examinee takes and passes the other portion of the examination.

* * * * *

DISPLAY, LOSS AND RENEWAL OF LICENSES AND PERMITS

§ 7.41. Display of licenses [and permits].

(a) A salon license [or permit] issued by the Board shall be displayed in a conspicuous place within the business premises of the salon.

(b) An individual license shall be readily available for inspection by the public or representatives of the Board at the place of business or employment of the individual holding the license [or permit].

(c) A SCHOOL LICENSE ISSUED BY THE BOARD SHALL BE DISPLAYED IN A CONSPICUOUS PLACE WITHIN THE PREMISES OF THE SCHOOL.

* * * * *

§ 7.43. Expiration and renewal of licenses.

(a) Licenses issued by the Board expire at biennial intervals. A license renewal [application] notice is mailed to each licensee approximately 4 weeks before the license expiration date. Renewal of the license is accomplished by submission of the license renewal application and the license renewal fee prescribed in § 7.2 (relating to fees).

* * *

(c) Within 2 years of the initial issuance of a natural hair braider license issued without examination under § 7.31(c) (relating to examination prerequisite for licensure; exceptions), the natural hair braider licensee shall provide to the Board ~~proof~~ A CERTIFIED COPY OF A SCHOOL TRANSCRIPT, A CERTIFIED COPY OF A SCHOLASTIC RECORD REQUIRED BY § 7.119, OR AN EQUIVALENT DOCUMENT CERTIFIED BY A LICENSED SCHOOL OF COSMETOLOGY, that DEMONSTRATES THAT the licensee has completed 150 hours of education from a licensed school of cosmetology as a condition of renewal of the license. The 150 hours of education must include, at a minimum:

(1) 75 50 hours in scalp care.

(2) 50 hours in hygiene.

(3) 25 hours in occupational safety, the provisions of the act and this chapter.

(4) 25 HOURS IN NATURAL HAIR BRAIDING TECHNIQUES, SUCH AS LOCKING AND WEAVING.

* * * * *

§ 7.45. Reexamination if the license is not current for 5 or more years.

The holder of a [teacher's, cosmetologist's, cosmetician's or manicurist's] cosmetology teacher, limited practice teacher, cosmetologist, esthetician, nail technician or natural hair braider license that has been expired or in escrow for at least 5 years shall retake and pass the practical part of the examination for that license before submitting a renewal application.

LICENSURE AND MANAGEMENT OF [SHOPS] SALONS

§ 7.50. Applicability of requirements.

The requirements of §§ 7.51—7.53, 7.65 and 7.71—7.71b, 7.75—7.78, 7.81 and 7.82, apply equally to cosmetology [shops, cosmetician shops and manicurist shops] salons, esthetician salons, nail technology salons and natural hair braiding salons, unless the context indicates otherwise.

§ 7.51. Application for a [shop] salon license.

(a) An owner-applicant for a [shop] salon license shall submit a license application to the Board with the following:

- (1) A sketch plan showing the layout of the [shop] salon, including the position of the doors, windows, partitions, shampoo basins, lavatories, adjustable chairs and other floor equipment.

(2) The name and license number of the individual who will be the designated person in charge of the [shop] salon in the absence of the owner.

(3) The [shop] salon license fee prescribed in § 7.2 (relating to fees).

(b) A license will not be issued until the Board has verified the sworn statements made by the owner-applicant in the application and the [shop] salon has been inspected by a Bureau inspector for compliance with the facility requirements of this chapter. If the inspector determines that the [shop] salon meets the facility requirements of the act and this chapter, a license will be issued.

§ 7.52. Change of location or physical dimensions.

(a) A [shop] salon license is valid only for the location stated on the license. The owner of a [shop] salon who wishes to change its location shall submit an application to the Board for a change of [shop] salon location together with the information required in § 7.51 (relating to application for [shop] salon license) and the fee for change of [shop] salon location prescribed in § 7.2 (relating to fees). The application will be processed in the manner prescribed by § 7.51.

(b) A [shop] salon owner shall submit to the Board for its approval a sketch plan of any proposed change in the physical dimensions of the [shop] salon.

§ 7.53. Change of ownership.

The owner of a [shop] salon shall immediately notify the Board in writing of a change in the controlling ownership of the [shop] salon. If a partner or co-owner is being added or

deleted, the owner shall submit to the Board an application for change of license and the fee for change of license prescribed in § 7.2 (relating to fees).

* * * * *

§ 7.62. Management of [cosmetology shop] salons.

(a) A cosmetology [shop] salon shall be managed by the [shop] salon owner or, in the absence of the [shop] salon owner, a person in charge designated by the [shop] salon owner.

(b) The designated person in charge shall be a licensed cosmetologist[.], except as follows:

(1) In the case of [a cosmetician shop] an esthetician salon, the designated person in charge may be either a licensed cosmetologist or a licensed [cosmetician] esthetician.

(2) In the case of a [manicurist shop] nail technology salon, the designated person in charge may be either a licensed cosmetologist or a licensed [manicurist] nail technician.

(3) In the case of a natural hair braiding salon, the designated person in charge may be either a licensed cosmetologist or a licensed natural hair braider.

(c) Both the owner and the designated person in charge are responsible for posting the name of the owner or designated person in charge in a conspicuous place in the [shop] salon as required by section 4.4(b) of the act.

(d) The owner or designated person in charge of the [shop] salon shall be readily available in person to Bureau inspectors during regular business hours.

* * * * *

§ 7.64. Responsibilities of [shop] salon owner or designated person in charge.

(a) The primary responsibilities of a [shop] salon owner and designated person in charge are the administration of the business and personnel affairs of the [shop] salon and to assure compliance within the [shop] salon with all laws of the Commonwealth, this chapter and the Pennsylvania Human Relations Act (43 P. S. §§ 951—963).

(b) A [shop] salon owner or designated person in charge will be subject to disciplinary action by the Board for a violation of the act or this chapter committed by a licensed employee of the [shop] salon, if the owner or designated person in charge had knowledge of, or control over, the violation or should have had knowledge or control.

§ 7.65. Rental of booth space.

The rental of booth space within a [shop] salon is prohibited.

§ 7.66. Discrimination.

It is prohibited for any person to refuse, withhold from, or deny to any person because of the person's race, color, religious creed, ancestry or National origin, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of a cosmetology, [cosmetician or manicuring shop] esthetician, nail technology or natural hair braiding salon.

PHYSICAL REQUIREMENTS OF A [BEAUTY SHOP] SALON

§ 7.71. Equipment and supplies for a cosmetology [shop] salon.

(a) A cosmetology [shop] salon shall contain the following equipment, which is considered the minimum equipment needed for a [shop] salon with one cosmetologist:

* * *

(2) One [dresserette] styling station with mirror.

(3) One labeled first-aid kit containing the following items:

(i) An antiseptic.

(ii) Cotton balls.

(iii) Protective plastic or latex gloves.

(iv) A blood spill kit.

(v) A hazardous waste bag.

(vi) Eyewash.

(vii) Burn ointment.

(viii) Plastic or latex bandage strips of varying sizes and shapes.

(ix) Sterile gauze pads.

* * *

(8) [One container for hair pins or clips.

(9) One neck strip dispenser.

(10)] A closed storage area for soiled linen.

[(11)] (9) One timer clock.

[(12)] (10) One closed towel cabinet for clean linen.

[(13) One dry sterilizer] (11) A closed container for sanitized implements.

[(14)] (12) One wet [sterilizer]sanitizer.

[(15)] (13) A reception desk.

(14) Twelve sanitary towels for each styling station in the salon.

(15) One sink with hot and cold running water that is readily accessible to each styling station in the work area of the salon.

(16) One multi-purpose fire extinguisher suitable for use on Class A, B and C fires.

* * *

§ 7.71a. Equipment and supplies for [a cosmetician shop] an esthetician salon.

(a) [A cosmetician shop] An esthetician salon [shall] must contain the following equipment and supplies, which is considered the minimum equipment needed for a [shop] salon with one [cosmetician] esthetician:

* * *

(2) One [dresserette] work station with mirror.

(3) One labeled first-aid kit containing the following items:

(i) An antiseptic.

(ii) Cotton balls.

(iii) Protective plastic or latex gloves.

(iv) A blood spill kit.

(v) A hazardous waste bag.

(vi) Eyewash.

(vii) Burn ointment.

(viii) Plastic or latex bandage strips of varying sizes and shapes.

(ix) Sterile gauze pads.

* * *

(8) [One dry sterilizer] A closed container for sanitized implements.

(9) One wet [sterilizer]sanitizer.

* * *

(12) Twelve sanitary towels for each work station in the salon.

(13) One sink with hot and cold running water that is readily accessible to each work station in the work area of the salon.

(14) One multi-purpose fire extinguisher suitable for use on Class A, B and C fires.

(b) For each additional [cosmetician] esthetician, equipment and supplies shall be increased so that each [cosmetician] esthetician can render services safely and efficiently.

§ 7.71b. Equipment and supplies for a [manicuring shop] nail technology salon.

(a) A [manicuring shop shall] nail technology salon must contain the following equipment and supplies, which is considered the minimum equipment needed for a [shop] salon with one [manicurist] nail technician:

* * *

(4) One labeled first-aid kit containing the following items:

(i) An antiseptic.

(ii) Cotton balls.

(iii) Protective plastic or latex gloves.

(iv) A blood spill kit.

(v) A hazardous waste bag.

(vi) Eyewash.

(vii) Burn ointment.

(viii) Plastic or latex bandage strips of varying sizes and shapes.

(ix) Sterile gauze pads.

* * *

(8) [Clean linen]Twelve sanitary towels for each work station in the salon.

(9) One wet [sterilizer]sanitizer.

(10) [One dry sterilizer]A closed container for sanitized implements.

* * *

(12) One sink with hot and cold running water that is readily accessible to each work station in the work area of the salon.

(13) One multi-purpose fire extinguisher suitable for use on Class A, B and C fires.

(b) For each additional [manicurist] nail technician, equipment and supplies shall be increased so that each [manicurist] nail technician can render services safely and efficiently.

§ 7.71c. Equipment and supplies for a natural hair braiding salon.

(a) A natural hair braiding salon must contain the following equipment and supplies, which is considered the minimum equipment needed for a salon with one natural hair braider:

(1) One adjustable chair.

(2) One styling station with mirror.

(3) One labeled first-aid kit containing the following items:

(i) An antiseptic.

(ii) Cotton balls.

(iii) Protective plastic or latex gloves.

(iv) A blood spill kit.

- (v) A hazardous waste bag.
 - (vi) Eyewash.
 - (vii) Burn ointment.
 - (viii) Plastic or latex bandage strips of varying sizes and shapes.
 - (ix) Sterile gauze pads.
 - (4) One dryer or blow dryer.
 - (5) One shampoo tray or basin.
 - (6) Twelve combs and twelve brushes.
 - (7) One covered waste container.
 - (8) A closed storage area for soiled linen.
 - (10) One closed towel cabinet for clean linen.
 - (11) A closed container for sanitized implements.
 - (14) One wet sanitizer.
 - (15) A reception desk.
 - (16) Twelve sanitary towels for each styling station in the salon.
 - (17) One sink with hot and cold running water that is readily accessible to each styling station in the work area of the salon.
 - (18) One multi-purpose fire extinguisher suitable for use on Class A, B and C fires.
- (b) For each additional natural hair braider, equipment and supplies shall be increased so that each natural hair braider can render services safely and efficiently.

* * * * *

§ 7.75. Entrances.

The entrance to a [shop] salon that is located in a private home shall permit clients to enter the [shop] salon directly from the public thoroughfare without passing through any part of the home.

§ 7.76. Floor space.

(a) The floor area of a [shop] salon operated by one licensee shall have a minimum area of 180 square feet with a minimum width of 10 feet. An additional area of at least 60 square feet is required for each additional licensee in the [shop] salon. The Board, upon an applicant's request, may grant a variance from the space requirements concerning a [shop] salon which the Board believes is reasonable.

(b) [Shops] Salons opened prior to September 15, 1976 which have been operating with one cosmetologist shall have sufficient floor space to properly install the equipment with regard to the health and safety of the patrons of the cosmetology [shop] salon. It is suggested that the floor space be a minimum of 10 feet by 12 feet or 120 square feet, with 60 square feet for each additional operator. The Board, after examination of the [shop's] salon's layout, may grant variance from the [shop] salon space requirements which the Board believes is reasonable.

§ 7.77. Use of [shop] salon for other purposes prohibited.

No part of a [shop] salon, including lavatories and laundry facilities, may be used for other purposes.

§ 7.78. Sign.

A [shop] salon shall display, at or near its main entrance, a sign that is clearly visible indicating to the public that it is a cosmetology [shop] salon or limited practice salon.

§ 7.79. Lavatories.

A [shop] salon shall have adequate lavatories on the premises. For the purposes of this section, "on the premises" means within the square footage of the salon.

ACTIVITIES OUTSIDE A [SHOP] SALON

§ 7.81. Rendering of services outside a [shop] salon.

A cosmetologist or holder of a limited license, with the permission of the employing [shop] salon, may render by appointment cosmetology or limited license services to persons at their residences and to persons who are confined to institutions due to illness, imprisonment, old age or similar circumstances.

§ 7.82. Record of services rendered outside a [shop] salon.

A [cosmetologist] licensee who renders [cosmetology] licensed services outside the [shop] salon shall maintain at the employing [shop] salon complete records for each service rendered outside the [shop] salon, including the date, time, place and fee charged. The record of outside services shall be considered part of the records of the [shop] salon.

§ 7.83. Responsibility of a [shop] salon for outside services.

A [shop that sponsors] salon through which appointments are made for the rendering of cosmetology or limited license services outside the [shop] salon shall be responsible for ensuring that the [cosmetologists] licensees are fully supplied and equipped when they perform services outside the [shop] salon and that all other requirements of this chapter are complied with.

HEALTH AND SAFETY IN [SHOPS] SALONS

§ 7.90. Applicability of requirements.

The requirements of this section and §§ 7.91—7.98 and 7.100 apply equally to cosmetology [shops, cosmetician shops and manicurist shops] salons, esthetician salons, nail technology salons and natural hair braiding salons, unless the context indicates otherwise.

§ 7.91. Sanitation and safety generally.

(a) A [shop shall] salon must be well lighted and well ventilated.

(b) All areas of the [shop] salon, including the floors and lavatories, shall be maintained in a safe, orderly and sanitary condition.

(c) Sharp implements shall be stored upright with the points down or in a protective case.

§ 7.92. [Sterilization] Sanitization of equipment.

Razors for hair, tweezers, combs, hairbrushes, and other tools, instruments, utensils and appliances that come into contact with a client shall be sanitized immediately after each use and maintained in a sanitary condition at all times.

§ 7.93. Sanitary use of towels.

(a) Only clean cloth towels or disposable paper towels shall be used on clients. Unused cloth towels shall be kept in a closed cabinet. Unused paper towels shall be kept in a closed cabinet or closed towel dispenser. A cloth towel that has been used on a client shall be immediately placed in a closed container for soiled linen. A disposable paper towel that has been used on a client shall be immediately discarded in a covered waste container.

* * * * *

§ 7.94. Sanitary use of supplies.

(a) The use of powder puffs or styptic pencils in a [shop] salon is prohibited.

* * * * *

(c) Creams and other semisolid substances shall be removed from their containers with a sterile spatula or similar utensil. The spatula or similar utensil may not be permitted to come into contact with the skin or hair of a ANOTHER client UNTIL IT IS PROPERLY DISINFECTED.

* * * * *

§ 7.95. Individual cleanliness.

Every [shop employe] salon employee who serves the public shall be clean as to person and dress and shall thoroughly cleanse the hands immediately before rendering services to a client and immediately after using the lavatory.

* * * * *

§ 7.98. Violation of related laws.

The license of a licensee who has pled guilty or nolo contendere to, or has been convicted of, a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or a similar State or Federal law, shall be subject to suspension or revocation under section [20] 13 of the act (63 P. S. § 519).

* * * * *

§ 7.100. Permanent wave [operation] operations and chemical applications.

A client may not be left unattended during the heating or processing period of a permanent wave operation or chemical application.

* * * * *

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:

* * * * *

(2) The name, signature and license number of the school supervisor, together with proof that the supervisor meets the following qualifications:

(i) Possesses a current [teacher's] cosmetology teacher license issued by the Board.

(ii) Has done one of the following:

* * *

(B) Acquired 1,250 hours of ~~satisfactory~~ experience as a cosmetology teacher and 1,800 hours of ~~satisfactory work~~ experience [as the designated person in charge of a cosmetology SALON shop].

* * * * *

§ 7.114. School equipment and supplies.

(a) A school enrolling 25 students or less [shall] must have, at a minimum, the following equipment:

* * *

(4) Four [dry sterilizers]closed containers for sanitized implements.

(5) Four wet [sterilizers]sanitizers.

* * *

(9) Twelve [dresserettes]styling stations, mirrors and chairs.

* * *

(20) Two sanitary towels per student.

* * * * *

§ 7.115. Student equipment and supplies.

(a) A school shall ensure that each cosmetology student possesses and maintains in sanitary condition the following:

* * *

(3) One hair cutting razor.

* * *

(7) Complete tools for [manicuring] nail technology, including emery boards, [nipper or scissors,] pusher and brush.

* * *

(10) One pair of tweezers.

(b) A school shall ensure that each [cosmetician] esthetician student possesses and maintains in sanitary condition the following:

* * *

(c) A school shall ensure that each [manicuring] nail technology student possesses and maintains in sanitary condition the following:

* * *

(2) Complete tools for [manicuring] nail technology, including emery boards, [nipper or scissors,] pusher and brush.

* * *

(4) A basic [manicuring] nail technology textbook.

(d) A school shall ensure that each natural hair braiding student possesses and maintains in sanitary condition the following:

(1) One shampoo cape.

(2) One comb-out cape.

(3) Two brushes.

(4) Six combs.

(5) A minimum of 100 pin curl clips.

(6) A carrying case of sufficient size to accommodate the equipment and supplies used by the student.

(7) A basic natural hair braiding textbook.

* * * * *

§ 7.118. Professional staff.

(a) A school shall employ as [instructors] teachers of courses that are part of the required curriculum persons who possess a current [teacher's] cosmetology teacher or limited practice teacher license issued by the Board, except that a school may employ as [instructors] teachers of business or teaching skills persons who hold a current teacher's certificate issued by the Department of Education.

(b) The [teacher's] license of each [instructor] teacher employed by the school shall be conspicuously displayed in the school.

(c) A school shall employ at least one full-time [instructor] teacher.

(d) The student/teacher ratio of a class taught for credit may not exceed 25 to 1, except if a guest lecture is given by a person who is not regularly employed by the school as an [instructor] teacher.

* * *

§ 7.118a. Uniforms.

Teachers and students shall be attired in washable uniforms during school hours. A [teacher's] teacher uniform [shall] must be distinguished from a [student's] student uniform.

* * * * *

§ 7.120. Work done by students on the public.

(a) A school may permit students ~~who have completed at least 300 hours of instruction to~~ work on the public, AND MAY CHARGE A FEE FOR TREATMENT PERFORMED BY STUDENTS ON THE PUBLIC BASED ON THE REASONABLE COST OF MATERIALS USED IN SUCH TREATMENT, ~~if the charges for the students' services are based on the cost of materials used on the client only. THEY~~ THE STUDENTS HAVE SUCCESSFULLY COMPLETED THE FOLLOWING HOURS OF INSTRUCTION:

- (1) COSMETOLOGY CURRICULUM - 300 HOURS
- (2) ESTHETICS CURRICULUM - 75 HOURS
- (3) NAIL TECHNOLOGY CURRICULUM - 50 HOURS
- (4) NATURAL HAIR BRAIDING CURRICULUM - 75 HOURS

* * * * *

~~(b)~~(C) A school shall display in a conspicuous place at the entrance to the school a sign stating that it is a school of cosmetology.

* * * * *

§ 7.123. Duty work.

A school shall require students to keep their stations clean and to assist in general clean-up and other duties that may be required in an operating [shop] salon, except that students may not be required to scrub floors, wash windows or perform janitorial tasks.

* * * * *

§ 7.125. Health and safety in school.

A school shall observe the same health and safety requirements that are prescribed for [shops] salons in §§ 7.91—7.98, 7.100 and 7.101.

* * * * *

§ 7.128. Mandatory offering of cosmetology curriculum.

* * *

(b) A school may offer instruction in the curriculum for teachers, [cosmeticians and manicurists] estheticians, nail technicians and natural hair braiders prescribed in § 7.129.

§ 7.129. Curriculum requirements.

(a) Except as provided in subsection (b), a school's cosmetology curriculum, excluding electives, shall comprise A MINIMUM OF [1250] 1,250 hours, and cover the following subjects; the accompanying breakdown of hours by subject is recommended:

BASIC COSMETOLOGY CURRICULUM

	Recommended Hours
Professional Practices	50
Bacteriology, [Sterilization] <u>Disinfection</u> , Sanitation	
Professional Attitude	
Business Practices	
PA [Beauty Culture] <u>Cosmetology Law</u>	
Sciences	200
Histology	

Trichology	
Chemistry	
Physiology	
Cosmetic Dermatology	
Electricity	
Cosmetology Skills-Cognitive and Manipulative	1,000
Shampooing AND CONDITIONING	
Hair Shaping	
Hair Styling/Fingerwaving	
CHEMICAL TEXTURIZING	
Permanent Waving	
Hair Coloring	
Hair Straightening	
Skin Care	
[Manicuring] <u>Nail technology</u>	
Temporary Hair Removal	
Scalp Treatment	
Care of all hair types and textures	
MAKEUP	
	Total 1,250

(b) A school's cosmetology curriculum for a student who holds a barber's license issued by the State Board of Barber Examiners shall MUST comprise A MINIMUM OF 695

hours and cover the subjects in subsection (a); the following breakdown of hours by subject is recommended:

* * *

(c) A school's teacher curriculum, excluding electives, shall MUST comprise A MINIMUM OF 500 hours and cover the following subjects; the accompanying breakdown of hours by subject is recommended:

* * *

(d) A school's [cosmetician] esthetics curriculum, excluding electives, [shall] must comprise A MINIMUM OF 300 hours and cover the following subjects; the accompanying breakdown of hours by subject is recommended:

[COSMETICIAN] ESTHETICS CURRICULUM

	Recommended Hours
Professional Practices	40
Sciences	100
Facial Treatments	100
Temporary Hair Removal	10
Makeup	50
	Total 300

(e) A school's [manicurist] nail technology curriculum, excluding electives, [shall] must comprise A MINIMUM OF 200 hours and cover the following subjects; the accompanying breakdown of hours by subjects is recommended:

[MANICURING] NAIL TECHNOLOGY COURSE OUTLINE

Recommended Hours

Professional Practice	25
Sciences	75
Nail Treatments	75
Pedicuring	25
	Total 200

(f) A school's natural hair braiding curriculum, excluding electives, must comprise A MINIMUM OF 300 hours and cover the following subjects; the accompanying breakdown of hours by subjects is recommended:

NATURAL HAIR BRAIDING COURSE OUTLINE

	<u>Recommended Hours</u>
<u>Professional practices, including sanitation</u>	<u>50</u>
<u>Sciences, including scalp care and anatomy</u>	<u>125</u>
<u>Cognitive and manipulative skills related to natural hair braiding</u>	<u>125</u>
	<u>Total 300</u>

* * * * *

PREPARATION BY APPRENTICESHIP METHOD

§ 7.131. Introduction.

An individual who chooses to seek eligibility for the [cosmetologist's] cosmetologist examination by apprenticeship shall comply with section 10 of the act (63 P. S. § 516) and the applicable requirements of this subchapter.

§ 7.132. Apprentice curriculum.

The cosmetology teacher responsible for offering instruction to an apprentice in a cosmetology [shop] salon shall teach the same cosmetology curriculum that the Board prescribes for schools of cosmetology in § 7.129 (relating to curriculum requirements), with additional hours included so that the total number of hours adds up to 2,000, as follows:

BASIC COSMETOLOGY APPRENTICE CURRICULUM

Professional Practices 50

Bacteriology, Disinfection, Sanitation

Professional Attitude

Business Practices

PA Cosmetology Law

Sciences 200

Histology

Trichology

Chemistry

Physiology

Cosmetic Dermatology

Electricity

Cosmetology Skills-Cognitive and Manipulative 1,750

Shampooing AND CONDITIONING

Hair Shaping

Hair Styling/Fingerwaving

Permanent Waving

Hair Coloring

Hair Straightening

Skin Care

Nail technology

Temporary Hair Removal

Scalp Treatment

Care of all hair types and textures

MAKE UP

Total 2,000

§ 7.133. Application for apprentice permit.

To qualify for apprenticeship training in a cosmetology [shop] salon, an individual shall apply to the Board for an apprentice permit.

§ 7.134. Apprentice reports.

The owner of a cosmetology [shop] salon that employs apprentices shall submit to the Board, on a form provided by the Board, a quarterly report of the hours earned by each apprentice. The reports shall be submitted by the following dates: April 15, July 15, October 15 and January 15.

* * * * *

17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4314 (Reactivation of Lapsed License) when submitting comments.

JONATHAN W. MCCULLOUGH, D.C.,
Chairperson

Fiscal Note: 16A-4314. 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 5. STATE BOARD OF CHIROPRACTIC

Subchapter B. LICENSURE, CERTIFICATION, EXAMINATION AND REGISTRATION PROVISIONS

§ 5.17. Biennial registration; unregistered status and inactive status; failure to renew; address of record.

* * * * *

(m) [If a licensee's license has been placed on inactive status for longer than 5 years, in addition to the statutory requirements of section 501(a) of the act (63 P. S. § 625.501(a)), the Board will require that a personal interview be conducted to ascertain the licensee's ability to practice with reasonable skill and safety to patients and the licensee's knowledge of the requirements of the act, this chapter and other pertinent health laws of this Commonwealth. If the licensee's license has been placed on inactive status for more than 5 years, the licensee shall apply for licensure in accordance with § 5.12 or § 5.13 (relating to licensure by examination; and licensure by reciprocity).] To reactivate a license that has been inactive for more than 5 years, the licensee shall establish current competence to practice by at least one of the following:

(1) Successful completion of the examinations required by § 5.15(a) (relating to licensure examinations) within 1 year prior to application for reactivation.

(2) Compliance with § 5.13 (relating to licensure by reciprocity).

(3) Proof of continuous licensed practice of chiropractic in one or more other jurisdictions of the United States or Canada for at least 5 years immediately preceding application for reactivation.

(4) Successful completion of the following examinations within 6 months prior to application for reactivation:

(i) The examination required by § 5.15(a)(2).

(ii) The Special Purpose Examination in Chiropractic administered by the National Board of Chiropractic Examiners.

[Pa.B. Doc. No. 07-1547. Filed for public inspection August 24, 2007, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

[49 PA. CODE CH. 7]
General Revisions

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 would implement changes made to the act of May 3, 1933 (P. L. 242, No. 86) (Act 86) by the act of July 7, 2006 (P. L. 704, No. 99) (Act 99), as well as to generally update the regulations to strengthen safety and sanitation requirements and to reflect current processes and practices utilized by the Board.

A. Effective Date

The proposed rulemaking 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. Section 16 of Act 99 (63 P. S. § 522) requires the Board to promulgate regulations to implement Act 99 within 18 months of its effective date. The effective date of Act 99 was September 5, 2006.

C. Background and Need for Proposed Rulemaking

Act 99 made substantial changes to Act 86 by adding a limited license classification—the natural hair braider license; by making changes to terminology in Act 86; by making other changes within Act 86 to implement the new natural hair braider license; and by extending to all limited license classes: (1) the ability to practice outside of a licensed salon in a client's residence under specified circumstances; (2) the ability to practice on a temporary license; and (3) the prohibition on booth rental within a licensed salon. These changes require corresponding changes and additions to Chapter 7. Act 99 requires the Board to promulgate regulations to make those changes within 18 months of its effective date.

Because the Board needed to make wholesale changes to Chapter 7 to implement Act 99, the Board also took the opportunity to propose a number of other changes to the regulations. Although piecemeal changes have been made to the regulations over the years, generally in response to legislative changes to Act 86, the Board had not undertaken an overall review and update since 1975. In the intervening period, some of the Board's regulatory provisions have become obsolete, terms of art have changed, standards of sanitation have evolved, some of the Board's licensing and examination processes have changed and deficiencies or errors in the regulations have become apparent. Accordingly, in this proposed rulemaking the Board is making changes, in addition to those required by Act 99, that the Board finds necessary to update the regulations and to address the way the profession and the Board have changed since 1975.

D. Description of Proposed Amendments

Terminology and Definitions in General

Act 99 replaced a number of terms in Act 86 with updated terminology. This proposed rulemaking would

replace the following old terms and their definitions throughout the regulations to reflect the updated terminology:

<i>Old Term</i>	<i>New Term</i>
Cosmetician	Esthetician
Manicuring	Nail technology
Manicurist	Nail technician
Shop	Salon

Additionally, this proposed rulemaking would add the following new terms and their definitions to the regulations where applicable, based on Act 99's addition of them to the cosmetology lexicon: "braiding," "esthetics," "limited license," "natural hair braider" and "natural hair braiding."

Because Act 99 added a definition of "limited license" that encompasses the nail technician, esthetician and natural hair braider licenses, the term "limited license" has been substituted throughout the regulations, when appropriate, to reduce the number of times that all three limited license classifications are enumerated.

Finally, throughout the existing regulations, the possessive nouns "cosmetologist's," "teacher's," "barber's," "student's" and "school's" were used to modify another term such as "license," "examination" or "uniform." However, Act 99's additions to Act 86 refer to the "esthetician license," the "nail technician license" and the "natural hair braider license," using the terms as adjectives to modify another term instead of using the possessive forms. Therefore, to remain consistent throughout Act 86 and the regulations, this proposed rulemaking would replace the possessive nouns with the unit modifier.

§ 7.1. Definitions.

Section 7.1 is amended by amending the existing definitions of "Board," "booth space" and "Bureau" to comport with the definitions in Act 86. The proposed rulemaking would delete the obsolete definition of "manicuring" and add the statutory definitions of "braiding," "cosmetologist," "cosmetology," "Department," "esthetics," "esthetician," "limited license," "nail technician," "nail technology," "natural hair braider," "natural hair braiding," "school of cosmetology" and "tanning units."

In addition, the Board proposes adding definitions in § 7.1 of "limited practice salon" and "limited practice teacher" and to use the defined terms throughout the proposed rulemaking to refer to salons licensed by the Board for the provision of esthetician services, nail technology services or natural hair braiding services only, and to those teachers licensed by the Board to provide instruction in the area of esthetics, nail technology or natural hair braiding only. Finally, because the Board recently had several salon applications and variance requests in which questions arose as to the definition of "lavatory," which is used elsewhere in the regulations, but which is not defined, the Board added a definition of "lavatory."

§ 7.2. Fees.

In § 7.2, the proposed rulemaking would add the natural hair braider license to the list of fees charged by the Board related to individual licenses, making the charges for initial licensure (\$10) and for biennial renewal (\$35) the same as current fees for the other individual license classes. Similarly, the proposed rulemaking adds the limited practice teacher license fee and the limited practice salon license fee so that the fees for limited practice teachers (\$10 for initial licensure and \$55 for biennial renewal) and limited practice salons (\$55 for

initial licensure and \$60 for biennial renewal) are the same as existing fees for cosmetology teachers and for cosmetology salons. Similar changes would be made to the provisions establishing the fees for a change in or reinspection of a salon (\$55 if a change is made that requires an inspection, \$15 if a change is made requiring no inspection and \$40 for reinspection after failing an inspection).

The Board did not previously have fees established for making changes in a cosmetology school. However, making changes, whether they require an inspection or not, requires some amount of clerical activity and time for processing. Because the fees are intended to recoup the costs associated with the processing of changes, the Board determined that fees are needed for changes in a school that require an inspection and for changes in a school that do not require an inspection, and established the fees in this proposed rulemaking. The fee for a change in a school that requires an inspection would be set at \$110 and the fee for a change that does not require an inspection would be set at \$35. The Board established these fees by taking the existing parallel fees regarding salons and increasing them according to the percentage by which the fee for a school license exceeds the fee for a salon license, believing that the amount of work involved would increase by the same proportion because of the additional paperwork and inspection time required with regard to a school.

§ 7.11. Types of individual licenses.

The Board proposes to amend § 7.11 by distinguishing between the cosmetology teacher license and the limited practice teacher license, by replacing the cosmetician and manicurist licenses with esthetician and nail technician licenses and adding the natural hair braider license.

§ 7.12. Scope of teacher's license.

§ 7.12a. Scope of limited practice teacher license.

The Board proposes to amend § 7.12 to clarify that this section applies only to cosmetology teachers and to add § 7.12a to define the scope of practice of limited practice teachers in esthetics, nail technology and natural hair braiding.

§ 7.14. Scope of cosmetologist's license.

§ 7.14a. Scope of cosmetician's license.

§ 7.15. Scope of manicurist's license.

§ 7.17. Scope of natural hair braider license.

The Board proposes to amend §§ 7.14, 7.14a and 7.15 and to add § 7.17 to define the scope of practice of the various individual licenses.

§ 7.31. Examination prerequisite for licensure; exception.

The Board proposes to amend § 7.31 to incorporate the new terminology of Act 99, and to add a grandfather clause for existing natural hair braiders provided in section 6 of Act 99 (63 P. S. § 512). As required by Act 99, for 1 year after the effective date of adoption of this proposed rulemaking, the Board will issue a natural hair braider license to an applicant who submits the application adopted by the Board, pays the required licensing fee and provides proof that the applicant has practiced natural hair braiding for 3 consecutive years immediately prior to the date of the application for licensure.

§ 7.31a. Examination dates and locations.

§ 7.32. Deadline for examination applications.

§ 7.32a. Contents of examination application.

The proposed rulemaking would amend existing provisions pertaining to the examinations to reflect current

processes. The Board's processes regarding the examinations have changed over the years since the regulations were initially promulgated because the functions regarding exam administration rest with the contracted exam provider, which means the exam administrator makes the day-to-day administration decisions, although it does so in accordance with the statutory requirements as the broad framework within which it operates.

Therefore, because the exam provider now administers the examinations on more frequent occasions than was the case previously, § 7.31a would be amended to delete the specific days and months on which the exams are given, to delete locations that are not always available and to permit additional locations to be established. Also, because the exams are given more frequently, § 7.32 would be amended to delete the specific exam deadlines, which are no longer in use, and to simply specify that the deadline is a month prior to the testing date for the specific location where the applicant intends to take the exam, a date to be established by the exam administrator.

Additionally, proposed § 7.32(c) requires that a first-time examinee complete and pass both the theoretical and the practical portions of the exam within 1 year of each other. The Board finds it desirable to institute this requirement because it is concerned that if applicants wait too long between taking one portion and the other, the knowledge they have learned in school will begin to become cloudy, lessening their chances of passing the second portion of the exam and their entrance into the profession will be delayed to the point that their skills will not be as sharp as they otherwise might have been. Proposed subsection (c) would also give the Board discretion to grant exceptions to the 1-year requirement to facilitate the transition from one exam provider to another. This is based on the Board's recent experience in changing from one contracted exam administrator to another, which created delays between some candidates' taking the two portions of the exam.

§ 7.32b. Requirements for teacher's examination.

The changes made by Act 99 allow an individual with a limited license to obtain a limited practice teacher license when previously, to teach an area of cosmetology, an individual could obtain a teacher license only if the individual was licensed as a cosmetologist. Accordingly, § 7.32b would be amended by addressing the requirements for the cosmetology teacher examination in subsection (a) and by providing the requirements for an individual with a limited license to obtain a limited practice teacher license in subsection (b). Subsection (c) would be added to specify that an applicant who already holds a teacher license for one limited practice field (esthetics, nail technology or natural hair braiding) may obtain a teacher license in an additional limited practice field if the applicant meets the teacher license requirements for the additional practice field and successfully completes the practical portion of the teacher exam for the additional practice field.

§ 7.32d. Requirements for cosmetologist's examination.

Proposed § 7.32d(c) would allow limited license holders who wish to obtain cosmetology licenses to receive educational credit toward the cosmetology education credits required for cosmetology licensure from the credits the applicants received when obtaining their education in their limited practice field. The new provision specifies the number of hours each limited licensee may be credited toward the total 1,250 hours that comprise the full cosmetology training program. The Board arrived at the

credited number of hours for each limited license by totaling the number of hours recommended in § 7.129(d) and (e) (relating to curriculum requirements) that relate to training for the actual techniques that the limited licensee needs to know. Thus, the esthetician curriculum recommendation is for 100 hours of training in facial treatments, 10 hours of training in temporary hair removal and 50 hours of training in makeup, for a total of 160 hours of training in the actual techniques of esthetics, which is the number that proposed subsection (c) would credit a licensed esthetician with if that licensee wished to train for the cosmetology license. The credited hours for the nail technician were calculated the same way, as were the credited hours for a natural hair braider, with these last being based on the technique hours that the Board would establish in the proposed § 7.129(f). Finally, subsection (d) would be added to require that the total 1,250 hours, including those already completed in a limited practice field program, must be completed within 4 consecutive years.

§ 7.32e. Requirements for cosmetician's examination.

§ 7.32f. Requirements for manicurist's examination.

§ 7.32h. Requirements for natural hair braider examination.

Act 99 amended Act 86 to specify the qualifications for licensure that limited license applicants must meet. Act 86 previously was silent as to the qualifications for limited license applicants. While the existing regulations stated the number of hours that an applicant for the cosmetician or manicurist exam had to have completed to be eligible for the applicable exam, no other qualifications were set forth. Accordingly, §§ 7.32e and 7.32f would be amended to set forth the requirements that applicants for esthetician and nail technician licenses must meet. Additionally, proposed § 7.32h sets forth the requirements that an applicant for the natural hair braider examination must meet to qualify for the examination and licensure after successful completion of the examination. This provision enumerates the qualifications specified by Act 99.

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

Act 99 also amended Act 86 to allow the Board to issue temporary licenses to limited license applicants, rather than just to cosmetologist and manicurist applicants. Therefore, § 7.32g would be amended to extend its temporary license provisions to applicants for limited licenses. This includes establishing the requirement, set forth in Act 99, that holders of temporary limited licenses may practice under the supervision of a holder of a corresponding limited license, as well as under the supervision of a licensed teacher or licensed cosmetologist.

Also, subsection (b) would be amended by deleting the last clause. The existing regulation makes a temporary license valid for 9 months "or until the next examination, whichever comes first." Because of changes in the Board's processes regarding the exam being given more frequently than just four times per year, retaining the "or until the next examination, whichever comes first" provision would mean some temporary licenses could be good for less than a month in certain instances. The Board believes it is more equitable to make temporary licenses valid for 9 months, particularly in light of section 21.1 of Act 86 (63 P. S. § 518.1), which provides that "[t]emporary licenses are granted for a nine-month period."

§ 7.34. Models for practical portion of examination.

The proposed rulemaking would amend § 7.34, which requires an examinee taking the practical portion of an examination to bring a model to the exam. Under current practice, determined by the exam administrator, only individuals taking the esthetics practical are required to provide their own models. Accordingly, this amendment would bring the regulation into harmony with the current practice.

§ 7.35. Failure of examination.

Section 7.35 would be amended by adding a clause that requires license applicants who fail a portion of the exam to retake and pass the failed portion within 1 year of the date the examinee takes and successfully passes the other portion of the exam. This would make § 7.35 consistent with proposed § 7.32(c) (relating to deadline for examination applicants). The rationale is the same. The Board finds it desirable to institute this requirement because it is concerned that if applicants wait too long between taking one portion and the other, the knowledge they have acquired in school will begin to become cloudy, lessening their chances of passing the second portion of the exam, and their entrance into the profession will be delayed to the point that their skills will not be as sharp as they otherwise might have been.

§ 7.41. Display of licenses and permits.

The proposed rulemaking would amend § 7.41 by slightly modifying the rule pertaining to display of licenses. First, "or permit" would be deleted because the Board does not issue permits of any kind so the words are meaningless. Additionally, the section would be broken down into two subsections, one regarding salon licenses and one regarding individual licenses. Subsection (a) would require the salon license to be displayed in a conspicuous place with the salon's business premises, while subsection (b) would be added to require that individual licenses should be readily available for inspection at the place of business or employment of the individual holding the license. The Board would make this change because of the recent growth of and concerns about identity theft. If an individual's license is posted in the open in a salon, it is there for all to see, thus making the individual susceptible to identity theft of the information that the license contains, including the license number. However, if the license is not out in the open but is readily available for inspection, the public still has access to license information, but the individual will know who has had access to it and might have copied something from it, thus limiting the exposure to and possible theft of personal information. In practice, the Board has permitted this for some time and many salons now keep the individual licenses in a book under the counter that is readily available for view by anyone who would ask for it. The amendment would make the practice and the regulation consistent, while protecting the licensee from identity theft and still making the license information available to the public.

§ 7.43. Expiration and renewal of licenses.

Section 7.43(a) would be amended to change "application" to "notice" in relation to the license renewal. This would align the language of the regulation with current practice, in that, due to the advent of online renewals of licenses, the Board no longer sends out license renewal applications. Rather, it sends out license renewal notices that notify the licensee that it is time to renew and provides a code by which the licensee may renew online directly at the Board's renewal website. The notice also

permits the licensee to renew by means of the traditional hard copy application by either downloading a renewal application form from the Board's website or by contacting the Board and requesting that a hard copy renewal application form be sent via regular mail to the licensee to complete the renewal process.

Additionally, the Board proposes to add subsection (c), which sets forth the requirement that, as a condition of biennial renewal for the first biennial renewal after initial licensure, an individual initially licensed as a natural hair braider without examination under § 7.31(c) (relating to examination prerequisite for licensure; exception) must provide to the Board proof that the licensee has completed 150 hours of education in specified subject matter areas, within 2 years of the date the license was initially issued. This implements the statutory provision from Act 99. Subsection (c) further enumerates the numbers of hours required in each of the subject matter areas specified by Act 99. The Board proposes to require 75 hours in scalp care, 50 hours in hygiene and 25 hours in occupational safety, the provisions of Act 86 and the regulations of the Board, for the statutorily-required total of 150. The Board made this distribution of hours based on its ranking of the importance of and amount of material required for adequate training in each of the subject matter areas.

§ 7.62. Management of cosmetology shop.

The proposed rulemaking would amend § 7.62 by adding a provision to establish who may be the designated person in charge for a natural hair braiding salon. This provision permits either a licensed cosmetologist or a licensed natural hair braider to be the designated person in charge, paralleling the provisions regarding esthetics and nail technology salons, which allow the holder of an applicable limited license or a licensed cosmetologist to be the designated person in charge.

§ 7.71. Equipment and supplies for a cosmetology shop.

§ 7.71a. Equipment and supplies for a cosmetician shop.

§ 7.71b. Equipment and supplies for a manicuring shop.

§ 7.71c. Equipment and supplies for a natural hair braiding salon.

The Board proposes to amend §§ 7.71, 7.71a and 7.71b and to add § 7.71c.

The existing regulations in §§ 7.71, 7.71a and 7.71b contain outdated terminology, require equipment or supplies the Board now views as optional or unnecessary and do not require some items the Board now believes to be essential for safety and sanitation reasons. Accordingly, in these three sections, the terminology is updated so that "styling station" or "work station" replaces the outdated term "dresserette" and "sanitizer" supplants "sterilizer." Also, in § 7.71, the Board would delete the requirement that a cosmetology salon have one container for hair pins or clips and one neck strip dispenser, because those are not necessary for a cosmetology salon to operate effectively, safely or in a sanitary fashion. A salon may still have them, but they are no longer required.

Each of these sections would also be amended by deleting the language requiring one dry sterilizer, an outdated requirement, and replacing it with the requirement that each salon have a closed container for sanitized implements. Also, to update the requirements and make salons safer and more sanitary, the Board would add the requirement that all salons have a labeled first aid kit containing nine specifically-enumerated items that the Board views as the minimum first aid equipment re-

quired to respond to an emergency in the salon. The Board has always required a first aid kit for salons but believed that, in this day and age when universal precautions for blood spills are taught and practiced in almost every workplace, and when the average salon deals with chemicals of many different kinds, the equipment in a first aid kit must include protective gloves, a blood spill kit, a hazardous waste bag, an eyewash and burn ointment. The other items enumerated are typically found in a basic first aid kit and make sense for the minor daily mishaps of daily work. To complete its update of the safety and sanitation requirements, the Board would amend these three sections to require a minimum of 12 sanitary towels for each styling or work station; at least 1 sink with hot and cold running water that is readily accessible to each styling or work station in the work area of the salon; and one multipurpose fire extinguisher suitable for use on Class A, B and C fires. Again, given the fact that salons now deal with all kinds of chemicals, some of them flammable, the Board believes the last requirement is something no salon should be without if it is going to provide the best in safety precautions to its clients.

Section 7.71c would also be added to establish the minimum equipment and supplies required for a natural hair braiding salon to operate. This provision parallels §§ 7.71, 7.71a and 7.71b, which impose similar equipment and supply requirements on cosmetology, esthetician and nail technology salons. These requirements list the minimum equipment that the Board believes a one-person natural hair braider salon needs to be able to provide both adequate service and a safe, sanitary environment to its clients.

§ 7.78. Sign.

Section 7.78 would be amended by adding "or limited practice salon" to extend the regulation's sign display requirement to all types of salons, rather than just to cosmetology salons.

§ 7.79. Lavatories.

The proposed rulemaking would amend § 7.79 by adding a second sentence defining "on the premises." The Board has seen many salon license applications in which the lavatory is not located inside the licensed premises of the salon, although it may be within the building of which the salon is a part. Consequently, there have been many requests for variances from this provision, or situations in which the applicant questions what the Board's regulation means by "on the premises." Accordingly, the second sentence would be added to clarify what is meant by the phrase and the Board's definition is "within the square footage of the salon."

§ 7.81. Rendering of services outside a shop.

§ 7.82. Record of services rendered outside a shop.

§ 7.83. Responsibility of a shop for outside services.

Under Act 86, as it existed previously, only cosmetologists could render services outside of a salon. However, Act 99 extended the authority to render services outside of a salon to all of the limited licensees. Accordingly, § 7.81 would be amended to add language extending its applicability to limited licensees as well as to cosmetologist licensees. It would also be amended to add the requirement that services be rendered by appointment, which is a specific requirement of section 8 of Act 86 (63 P.S. § 514). Similarly, § 7.82 would be amended by changing the limited terms "cosmetologist" and "cosmetology services" to the broader terms "licensee" and "licensed

services," thus making the recordkeeping provision applicable to all licensees who render services outside a licensed salon.

Finally, § 7.83 would be amended. As it reads presently, it makes a salon "that sponsors" services outside the salon responsible for supplying and equipping the cosmetologists who render those services. It would be amended to replace "that sponsors services outside the shop" with "through which appointments are made for the rendering of cosmetology or limited license services outside the salon," thus clarifying the regulation because the phrase "that sponsors services" was vague and open to interpretation. Additionally, the amendment extends this section's applicability to all licensees and all licensed salons, rather than just cosmetologists and cosmetology salons.

§§ 7.91—7.100.

Proposed § 7.91(c) (relating to sanitation and safety generally) requires that sharp implements be stored upright with the points down or in a protective case. This is an update to the general safety requirements that the Board believes licensees must implement to properly protect their clients and themselves.

The proposal would amend § 7.92 (relating to sterilization of equipment) to update the outdated term "sterilization" and replace it with "sanitization." It would also clarify that the provision applies to razors for hair, rather than to razors for the skin.

Additionally, § 7.93 (relating to sanitary use of towels) would be amended by adding "closed" before "towel dispenser." The Board believes requiring a closed towel dispenser for clean towels better protects the sanitary nature of the clean towels than would be the case if they were kept in an open container.

Likewise, the proposal would amend § 7.94(c) (relating to sanitary use of supplies) by adding "or hair" after "skin," thus prohibiting direct contact by a spatula or similar utensil with the hair of a client and helping to prevent the spread of bacteria and the like from one client to another.

Because of a citation to an inapplicable provision of Act 86, § 7.98 (relating to violation of related laws) is amended to correct the erroneous reference to "section 20 of the act" with a reference to section 13 of Act 86 (63 P.S. § 519).

The proposed rulemaking amends § 7.100 (relating to permanent wave operation) by extending the requirement that a client not be left unattended during the heating or processing period of a permanent wave operation to chemical applications, reflecting the Board's recognition that chemicals may be applied to a client in other operations and that, for safety's sake, clients should not be left alone during the heating or processing period of any chemical application.

§§ 7.111—7.129.

The Board would amend § 7.111 (relating to application for a school license) in that the qualifications of the school supervisor would be slightly modified by inserting "work" between "satisfactory" and "experience," and by deleting "as the designated person in charge of a cosmetology shop." This amendment would broaden the range of work experience that the Board finds acceptable in the individual named as a school supervisor in an application for a school license. The Board understands that an individual with a cosmetology teacher license issued by the Board may have a broad range of experience practicing cosmetology in salons, teaching in schools or teaching

apprentices in salons, that would make the individual an acceptable school supervisor regardless of whether the individual had ever been the designated person in charge, and this amendment reflects that understanding.

The Board's proposes to amend §§ 7.114 and 7.115 (relating to school equipment and supplies; and student equipment and supplies) for much the same reasons it would amend the provisions previously discussed regarding salon equipment and also to make the school and student equipment and supply requirements consistent with the salon equipment and supply requirements when the two coincide. The existing regulations contain outdated terminology and lack some items the Board now believes to be essential for safety and sanitation reasons. Accordingly, § 7.114 would amend the school equipment and supply requirements, updating "dry sterilizers" by replacing it with "closed containers for sanitized implements"; updating "sterilizers" by replacing the term with "sanitizers"; and updating "dresserettes" with "styling stations." Section 7.114 would also be amended by adding the requirement that a school enrolling 25 students have at least 2 sanitary towels per student. The equipment and supply requirements for students in § 7.115 would be amended by adding "hair cutting" to modify "razor," thus clarifying that the required razor for cosmetologist students is a hair cutting razor; by deleting the requirement that required tools for nail technology, for both cosmetologist and nail technician students, include nippers or scissors; and by adding the requirement that each cosmetology student have a pair of tweezers.

Additionally, proposed § 7.115(d) sets forth the required supplies and equipment that each natural hair braiding student must possess. This provision is necessary to cover the natural hair braider students who will come about as a result of Act 99's creation of the natural hair braider license.

Section 7.118 (relating to professional staff) would be amended in a minor way by replacing "instructor" or "instructors" with the term "teacher" or "teachers," as appropriate, because there is no other place in Act 86 or in the regulations where the term "instructor" or "instructors" is used.

Also, § 7.120(a) (relating to work done by students on the public) would be amended slightly for clarity. The regulation implemented section 7 of Act 86 (63 P.S. § 513), which prohibits schools from charging "any money whatsoever for treatments done by its students" and permits schools to charge only for "the reasonable cost of materials used in such treatments." However, over the years, it has become apparent that some schools have been calculating into the "reasonable cost of materials used in the treatment" items such as overhead, prorated teacher salaries and wear and tear on equipment. The Board does not believe that those broader expenses were intended to be encompassed in the cost of materials used in the treatment of clients, and therefore would make this amendment to clarify that the charge must be based on the reasonable cost of materials "used on the client" only.

§ 7.129. Curriculum requirements.

This proposal would amend § 7.129 by replacing the outdated term "sterilization" with the current term "disinfection," consistent with other proposed amendments. Additionally, § 7.129(a) would be amended by updating the reference to Act 86, changing "Beauty Culture Law" to "Cosmetology Law" to be consistent with current usage. While there is no actual provision in Act 86 that designates a short title, unlike many other licensing acts, the

common usage in the profession is to refer to Act 86 as the "Cosmetology Law." For example, section 1 of Act 99 (63 P.S. § 507) refers to Act 86 as the "Cosmetology Law." This amendment would adopt that modernization.

Proposed § 7.129(f) sets forth the natural hair braider curriculum that schools shall implement to train candidates for licensure as natural hair braiders. The regulation establishes a curriculum of 300 hours, as mandated by Act 99, and recommends that schools distribute the hours as follows: 50 to professional practices, including sanitation; 125 to sciences, including scalp care and anatomy; and 125 to cognitive and manipulative skills regarding natural hair braiding. This recommended apportionment is similar to the recommended apportionment for the other limited license curricula.

§ 7.132. Apprentice curriculum.

Finally, the Board proposes to amend § 7.132 by adding language to clarify the curriculum for apprentices. The existing regulation states merely that the cosmetology teacher responsible for offering instruction to an apprentice in a cosmetology salon shall teach the same cosmetology curriculum that the Board prescribes for schools of cosmetology in § 7.129. However, because section 4 of Act 86 (63 P.S. § 510) requires that apprentices shall complete 2,000 hours of training to sit for the cosmetology exam, which is 750 hours more than a cosmetology student shall complete who takes a course of training in a licensed school, some confusion has arisen as to how the hours in an apprenticeship program should be apportioned. This proposed rulemaking adds the apportionment of hours for the cosmetology curriculum in § 7.129 and assigns the additional 750 hours to the category of "cosmetology cognitive and manipulative skills." This narrows down the subject matter of the additional hours but leaves the actual content to the discretion of the cosmetology teacher and apprentice. The proposed rulemaking, therefore, gives a cosmetology teacher some guidance but permits leeway as to what else should be taught, thus allowing for differences in interest and in the nature of the services a given salon may actually provide.

E. Fiscal Impact and Paperwork Requirements

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, political subdivisions 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 August 15, 2007, 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 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-4514. 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

§ 7.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Board—The State Board of Cosmetology [of the Commonwealth].

Booth space—[Any area in a cosmetology shop, cosmetician shop or manicurist shop separated or not separated which is designated to be used by a licensed teacher, cosmetologist, cosmetician or manicurist.] The area of a salon in which a licensed cosmetologist or a holder of a limited license provides to a client a service for which a license is required under the act.

Braiding—Intertwining the hair in a systematic motion to create patterns in a three-dimensional form, inverting the hair against the scalp along part of a straight or curved row of intertwined hair, or twisting the hair in a systematic motion, including extending the hair with natural or synthetic hair fibers.

Bureau—The Bureau of Professional and Occupational Affairs [of the Commonwealth] in the Department of State.

Cosmetologist—A licensed individual who is engaged in the practice of cosmetology.

Cosmetology—

(i) Any or all work done for compensation by any person, which work is generally and usually performed by cosmetologists, which work is for the embellishment, cleanliness and beautification of the human hair, such as arranging, braiding, dressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, pressing, or similar work thereon and thereabout, and the removal of superfluous hair, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work upon the scalp, face, arms or hands, or the upper part of the body, by the use of

mechanical or electrical apparatus or appliances or cosmetics, preparations, tonics, antiseptics, creams or lotions, or by any other means, and of manicuring the nails, which enumerated practices shall be inclusive of the term cosmetology but not in limitation thereof.

(ii) The term also includes the acts comprising the practice of nail technology, natural hair braiding and esthetics.

Department—The Commissioner of Professional and Occupational Affairs in the Department of State.

Esthetics—The practice of massaging the face, applying cosmetic preparations, antiseptics, tonics, lotions or creams to the face, removing superfluous hair by tweezers, depilatories or waxes and the dyeing of eyelashes and eyebrows.

Esthetician—An individual licensed by the Board to practice esthetics.

Lavatory—A working toilet and a working sink with hot and cold running water that are located in a separate room that affords privacy to the user.

Limited license—A license issued by the Board to an individual which permits that individual to engage in the practice of esthetics, natural hair braiding or nail technology.

Limited practice salon—A salon licensed by the Board for the provision of esthetician services, nail technology services or natural hair braiding services only.

Limited practice teacher—A teacher licensed by the Board for the purpose of providing instruction in the area of esthetics, nail technology or natural hair braiding only.

[*Manicuring*—Work or maintenance done to the nail or cuticle of the hands or the feet for cosmetic purposes including, and limited to, filing, polishing, coating, nipping, shaping, sculpturing and applying artificial tips and other extensions. The term does not include the removal of corns and callouses but does include the removal of thin, dry skin for cosmetic purposes with a pumice stone or similar nonmetal instrument.]

Nail technician—An individual licensed by the Board to engage in the practice of nail technology.

Nail technology—The practice of manicuring the nails of an individual, applying artificial or sculptured nails to an individual, massaging the hands of an individual or massaging the lower arms of an individual up to the individual's elbow, massaging the feet of an individual or the lower legs of an individual up to the individual's knee, or a combination of these acts.

Natural hair braider—An individual licensed by the Board to engage in the practice of natural hair braiding.

Natural hair braiding—

(i) The practice of utilizing techniques that result in tension on hair roots of individuals, such as twisting, wrapping, weaving, extending, locking or braiding of the hair.

(ii) The term does not include the application of dyes, reactive chemicals or other preparations to alter the color or to straighten, curl or alter the structure of hair.

School of cosmetology—Any individual, partnership, association, business corporation, nonprofit corporation, municipal corporation, school district or any group of individuals however organized whose purpose is to provide courses of instruction in cosmetology or the teaching of cosmetology.

Tanning units—Equipment that utilizes ultraviolet light for the purpose of cosmetic tanning.

§ 7.2. Fees.

Fees charged by the Board are as follows:

Licensure of cosmetologist, [manicurist or cosmetician] nail technician, esthetician or natural hair braider \$10

Licensure of cosmetology teacher or limited practice teacher \$10

Licensure of cosmetology [shop, manicurist shop or cosmetician shop] salon or limited practice salon \$55

* * * * *

Biennial renewal of [manicurist's] nail technician license \$35

Biennial renewal of [cosmetician's] esthetician license \$35

Biennial renewal of [cosmetologist's] cosmetologist license \$35

Biennial renewal of natural hair braider license \$35

Biennial renewal of cosmetology [teacher's] teacher or limited practice teacher license \$55

Biennial renewal of cosmetology [shop's] salon or limited practice salon license \$60

[Biennial renewal of cosmetician or manicurist shop's license \$60]

Biennial renewal of cosmetology [school's] school license \$150

* * * * *

Change in cosmetology [, cosmetician or manicurist shop] salon or limited practice salon (inspection required) \$55

Change in cosmetology [, cosmetician or manicurist shop] salon or limited practice salon (no inspection required) \$15

Change in cosmetology school (inspection required) \$110

Change in cosmetology school (no inspection required) \$35

Reinspection of cosmetology [, cosmetician or manicurist shop] salon or limited practice salon or cosmetology school \$40

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INDIVIDUAL LICENSES

§ 7.11. Types of individual licenses.

The following [license] licenses are issued by the Board to qualified individuals under the act:

- (1) [Teacher] Cosmetology teacher.

- (2) Limited practice teacher.

- (3) Cosmetologist.

[(3) Cosmetician] (4) Esthetician.

[(4) Manicurist] (5) Nail technician.

- (6) Natural hair braider.

§ 7.12. Scope of [teacher's] cosmetology teacher license.

An individual holding a [teacher's] cosmetology teacher license is qualified, without further licensure, to perform the functions of a teacher, cosmetologist, [cosmetician or manicurist] esthetician, nail technician or natural hair braider.

§ 7.12a. Scope of limited practice teacher license.

(a) An individual holding a limited practice teacher license in esthetics is qualified, without further licensure, to teach esthetics in a licensed school of cosmetology and to perform the functions of an esthetician.

(b) An individual holding a limited practice teacher license in nail technology is qualified, without further licensure, to teach nail technology in a licensed school of cosmetology and to perform the functions of a nail technician.

(c) An individual holding a limited practice teacher license in natural hair braiding is qualified, without further licensure, to teach natural hair braiding in a licensed school of cosmetology and to perform the functions of a natural hair braider.

§ 7.14. Scope of [cosmetologist's] cosmetologist license.

An individual holding a [cosmetologist's] cosmetologist license is qualified, without further licensure, to perform the functions of a cosmetologist, [cosmetician or manicurist] esthetician, nail technician or natural hair braider.

§ 7.14a. Scope of [cosmetician's] esthetician license.

An individual holding [a cosmetician's] an esthetician license is qualified to perform [cosmetician] esthetician services only.

§ 7.15. Scope of [manicurist's] nail technician license.

An individual holding a [manicurist's] nail technician license is qualified to perform [manicuring] nail technology services only.

§ 7.17. Scope of natural hair braider license.

An individual holding a natural hair braider license is qualified to perform natural hair braiding services only.

EXAMINATIONS

§ 7.31. Examination prerequisite for licensure; [exception] exceptions.

- (a) Except as provided in [subsection] subsections
- (b) and (c), an individual who wants to obtain a [teacher's, cosmetologist's, cosmetician's or manicurist's] cosmetology teacher, limited practice teacher, cosmetologist, esthetician, nail technician or natural

hair braider license listed in §§ 7.12—[7.15] 7.17 shall pass the examination required by the Board for that license.

* * * * *

(c) Until _____ (*Editor's Note: The blank refers to a date 1 year after the effective date of adoption of this proposed rulemaking.*), the Board will issue a natural hair braider license to an applicant who does the following:

(1) Submits the application adopted by the Board.

(2) Pays the required licensing fee in § 7.2 (relating to fees).

(3) Provides proof that the applicant has practiced natural hair braiding for 3 consecutive years immediately prior to the date of the application for licensure.

(i) Proof of practice requires that the applicant provide tax records of employment and an affidavit from the applicant and the applicant's immediate supervisor, when applicable, verifying the applicant's practice of natural hair braiding for 3 consecutive years immediately prior to the date of the licensure application.

(ii) The Board will accept the information provided without penalty to the applicant for failure to comply with the licensing provisions prior to September 5, 2006, the effective date of the act of July 7, 2006 (P. L. 704, No. 99).

§ 7.31a. Examination dates and locations.

Licensing examinations are given [on the third Tuesdays of January, April, July and October] monthly in Philadelphia, Pittsburgh. [Wilkes-Barre,] Harrisburg and [Erie] additional locations established by the examination administrator after consultation with the Board.

§ 7.32. Deadline for examination applications.

(a) The [deadlines] deadline for submitting an examination [applications are as follows:

<i>Examination date</i>	<i>Deadline for First-time examinees</i>	<i>Deadline for Reexaminees</i>
3rd Tuesday in January	December 1	December 10
3rd Tuesday in April	March 1	March 10
3rd Tuesday in July	June 1	June 10
3rd Tuesday in October	September 1	September 10]

application is 1 month prior to the testing date for the specific location where the applicant intends to take the exam, a date established by the examination administrator.

* * * * *

(c) A first-time examinee shall complete and pass both the theoretical and practical portions of the exam within 1 year. If the exam provider changes, the Board retains discretion to grant exceptions to

this 1-year requirement to facilitate the transition from one exam provider to another.

§ 7.32a. Contents of examination application.

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

(1) Proof of having met the requirements for the examination applied for as set forth in §§ 7.32b—7.32[f]h.

* * * * *

§ 7.32b. Requirements for [teacher's examination] teacher examinations.

(a) An applicant for the [teacher's] cosmetology teacher examination shall:

* * * * *

(3) Possess a current [cosmetologist's] cosmetologist license.

(4) Have completed 500 hours of instruction in a cosmetology teacher curriculum [in] provided by a licensed school of cosmetology.

(b) An applicant for the limited practice teacher examination in esthetics, nail technology or natural hair braiding shall:

(1) Be 18 years of age or older.

(2) Have completed a 12th grade education or its equivalent.

(3) Possess a current limited license in the relevant limited practice field.

(4) Have completed 500 hours of instruction in a cosmetology teacher or limited practice teacher curriculum provided by a licensed school of cosmetology.

(c) An applicant who has already obtained a limited practice teacher license in one of the limited practice fields and desires to obtain a limited practice teacher license in an additional limited practice field shall:

(1) Meet the requirements in subsection (b) for the additional limited practice field.

(2) Successfully complete the practical portion of the teacher examination for the additional limited practice field in which the applicant desires to become a licensed teacher.

§ 7.32d. Requirements for [cosmetologist's] cosmetologist examination.

(a) An applicant for the [cosmetologist's] cosmetologist examination who holds no limited licenses shall:

* * * * *

(c) An applicant for the cosmetologist examination who holds one or more active limited licenses issued by the Board and who obtained educational credits through a licensed cosmetology school will be given credit for the number of educational hours obtained to qualify for the active limited license or licenses as follows:

(1) An applicant who holds an active esthetician license will be given credit for 160 hours toward the total cosmetology training program of 1,250 hours.

(2) An applicant who holds an active nail technician license will be given credit for 100 hours toward the total cosmetology training program of 1,250 hours.

(3) An applicant who holds an active natural hair braider license will be given credit for 125 hours toward the total cosmetology training program of 1,250 hours.

(d) An applicant seeking credit for educational credits under subsection (c) shall complete the total of 1,250 cosmetology training hours, including those already completed in the limited license practice field for which the applicant is seeking credit, within 4 consecutive years.

§ 7.32c. Requirements for [cosmetician's] esthetician examination.

(a) An applicant for the [cosmetician's] esthetician examination shall [have]:

- (1) Be 16 years of age or older.
- (2) Except as provided in subsection (b), have done one of the following:
 - (i) Completed a 10th grade education or its equivalent.
 - (ii) Received training from or under the auspices of the Bureau of Rehabilitation in the Department of Labor and Industry.

(3) Have completed 300 hours of instruction in skin care in a licensed school of cosmetology.

(b) Subsection (a)(2) does not apply to an applicant who is one of the following:

- (1) A veteran.
- (2) Thirty-five years of age or older.

§ 7.32f. Requirements for [manicurist's] nail technician examination.

(a) An applicant for the [manicurist's] nail technician examination shall [have]:

- (1) Be 16 years of age or older.
- (2) Except as provided in subsection (b), have done one of the following:

- (i) Completed a 10th grade education or its equivalent.
- (ii) Received training from or under the auspices of the Bureau of Rehabilitation in the Department of Labor and Industry.

(3) Have completed 200 hours of instruction in [manicuring] nail technology in a licensed school of cosmetology.

(b) Subsection (a)(2) does not apply to an applicant who is one of the following:

- (1) A veteran.
- (2) Thirty-five years of age or older.

§ 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] cosmetologist examination or to any limited license examination and who pays the examination fee set by the professional testing organization and

the license 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.

(b) A temporary license is valid for 9 months [or until the next examination, whichever comes first].

(c) The holder of a temporary [cosmetologist's] cosmetologist license shall practice under the supervision of a licensed cosmetology teacher or cosmetologist. The holder of a temporary [manicurist's] limited license shall practice under the supervision of a licensed cosmetology teacher [or], cosmetologist, limited practice teacher in the corresponding limited practice field or holder of a corresponding limited license.

§ 7.32h. Requirements for natural hair braider examination.

(a) An applicant for the natural hair braider examination shall:

- (1) Be 16 years of age or older.
- (2) Except as provided in subsection (b), have done one of the following:
 - (i) Completed a 10th grade education or its equivalent.
 - (ii) Received training from or under the auspices of the Bureau of Rehabilitation in the Department of Labor and Industry.

(3) Have completed 300 hours of Board-approved subjects relating to sanitation, scalp care, anatomy and natural hair braiding in a licensed school of cosmetology.

(b) Subsection (a)(2) does not apply to an applicant who is one of the following:

- (1) A veteran.
- (2) Thirty-five years of age or older.

§ 7.34. Models for practical portion of examination.

An examinee taking the practical part of [an] the esthetics examination shall bring with him a model.

§ 7.35. Failure of examination.

An examinee who fails either the practical or theoretical part of the examination for a cosmetology teacher, limited practice teacher, cosmetologist, [cosmetician or manicurist] esthetician, nail technician or natural hair braider license will be required to retake and pass the failed portion of the examination within 1 year of the date the examinee takes and passes the other portion of the examination.

DISPLAY, LOSS AND RENEWAL OF LICENSES AND PERMITS

§ 7.41. Display of licenses [and permits].

(a) A salon license [or permit] issued by the Board shall be displayed in a conspicuous place within the business premises of the salon.

(b) An individual license shall be readily available for inspection by the public or representatives of the Board at the place of business or employment of the individual holding the license [or permit].

§ 7.43. Expiration and renewal of licenses.

(a) Licenses issued by the Board expire at biennial intervals. A license renewal [application] notice is mailed to each licensee approximately 4 weeks before the license expiration date. Renewal of the license is accomplished by submission of the license renewal application and the license renewal fee prescribed in § 7.2 (relating to fees).

* * * * *

(c) Within 2 years of the initial issuance of a natural hair braider license issued without examination under § 7.31(c) (relating to examination prerequisite for licensure; exceptions), the natural hair braider licensee shall provide to the Board proof that the licensee has completed 150 hours of education from a licensed school of cosmetology as a condition of renewal of the license. The 150 hours of education must include, at a minimum:

- (1) 75 hours in scalp care.
- (2) 50 hours in hygiene.
- (3) 25 hours in occupational safety, the provisions of the act and this chapter.

§ 7.45. Reexamination if the license is not current for 5 or more years.

The holder of a [teacher's, cosmetologist's, cosmetician's or manicurist's] cosmetology teacher, limited practice teacher, cosmetologist, esthetician, nail technician or natural hair braider license that has been expired or in escrow for at least 5 years shall retake and pass the practical part of the examination for that license before submitting a renewal application.

LICENSURE AND MANAGEMENT OF [SHOPS] SALONS

§ 7.50. Applicability of requirements.

The requirements of §§ 7.51—7.53, 7.65 and 7.71—7.71b, 7.75—7.78, 7.81 and 7.82, apply equally to cosmetology [shops, cosmetician shops and manicurist shops] salons, esthetician salons, nail technology salons and natural hair braiding salons, unless the context indicates otherwise.

§ 7.51. Application for a [shop] salon license.

(a) An owner-applicant for a [shop] salon license shall submit a license application to the Board with the following:

(1) A sketch plan showing the layout of the [shop] salon, including the position of the doors, windows, partitions, shampoo basins, lavatories, adjustable chairs and other floor equipment.

(2) The name and license number of the individual who will be the designated person in charge of the [shop] salon in the absence of the owner.

(3) The [shop] salon license fee prescribed in § 7.2 (relating to fees).

(b) A license will not be issued until the Board has verified the sworn statements made by the owner-applicant in the application and the [shop] salon has been inspected by a Bureau inspector for compliance with the facility requirements of this chapter. If the inspector

determines that the [shop] salon meets the facility requirements of the act and this chapter, a license will be issued.

§ 7.52. Change of location or physical dimensions.

(a) A [shop] salon license is valid only for the location stated on the license. The owner of a [shop] salon who wishes to change its location shall submit an application to the Board for a change of [shop] salon location together with the information required in § 7.51 (relating to application for [shop] salon license) and the fee for change of [shop] salon location prescribed in § 7.2 (relating to fees). The application will be processed in the manner prescribed by § 7.51.

(b) A [shop] salon owner shall submit to the Board for its approval a sketch plan of any proposed change in the physical dimensions of the [shop] salon.

§ 7.53. Change of ownership.

The owner of a [shop] salon shall immediately notify the Board in writing of a change in the controlling ownership of the [shop] salon. If a partner or co-owner is being added or deleted, the owner shall submit to the Board an application for change of license and the fee for change of license prescribed in § 7.2 (relating to fees).

§ 7.62. Management of [cosmetology shop] salons.

(a) A cosmetology [shop] salon shall be managed by the [shop] salon owner or, in the absence of the [shop] salon owner, a person in charge designated by the [shop] salon owner.

(b) The designated person in charge shall be a licensed cosmetologist[.], except as follows:

(1) In the case of [a cosmetician shop] an esthetician salon, the designated person in charge may be either a licensed cosmetologist or a licensed [cosmetician] esthetician.

(2) In the case of a [manicurist shop] nail technology salon, the designated person in charge may be either a licensed cosmetologist or a licensed [manicurist] nail technician.

(3) In the case of a natural hair braiding salon, the designated person in charge may be either a licensed cosmetologist or a licensed natural hair braider.

(c) Both the owner and the designated person in charge are responsible for posting the name of the owner or designated person in charge in a conspicuous place in the [shop] salon as required by section 4.4(b) of the act.

(d) The owner or designated person in charge of the [shop] salon shall be readily available in person to Bureau inspectors during regular business hours.

§ 7.64. Responsibilities of [shop] salon owner or designated person in charge.

(a) The primary responsibilities of a [shop] salon owner and designated person in charge are the administration of the business and personnel affairs of the [shop] salon and to assure compliance within the [shop] salon with all laws of the Commonwealth, this chapter and the Pennsylvania Human Relations Act (43 P. S. §§ 951—963).

(b) A [shop] salon owner or designated person in charge will be subject to disciplinary action by the Board for a violation of the act or this chapter committed by a licensed employee of the [shop] salon, if the owner or designated person in charge had knowledge of, or control over, the violation or should have had knowledge or control.

§ 7.65. Rental of booth space.

The rental of booth space within a [shop] salon is prohibited.

§ 7.66. Discrimination.

It is prohibited for any person to refuse, withhold from, or deny to any person because of the person's race, color, religious creed, ancestry or National origin, either directly or indirectly, any of the accommodations, advantages, facilities or privileges of a cosmetology, [cosmetician or manicuring shop] esthetician, nail technology or natural hair braiding salon.

PHYSICAL REQUIREMENTS OF A [BEAUTY SHOP] SALON

§ 7.71. Equipment and supplies for a cosmetology [shop] salon.

(a) A cosmetology [shop shall] salon must contain the following equipment, which is considered the minimum equipment needed for a [shop] salon with one cosmetologist:

* * * * *

- (2) One [dresserette] styling station with mirror.
- (3) One labeled first-aid kit[.] containing the following items:
 - (i) An antiseptic.
 - (ii) Cotton balls.
 - (iii) Protective plastic or latex gloves.
 - (iv) A blood spill kit.
 - (v) A hazardous waste bag.
 - (vi) Eyewash.
 - (vii) Burn ointment.
 - (viii) Plastic or latex bandage strips of varying sizes and shapes.
 - (ix) Sterile gauze pads.
- (8) [One container for hair pins or clips.
- (9) One neck strip dispenser.
- (10) [A closed storage area for soiled linen.
- [(11) (9) One timer clock.
- [(12) (10) One closed towel cabinet for clean linen.
- [(13) One dry sterilizer] (11) A closed container for sanitized implements.
- [(14) (12) One wet [sterilizer] sanitizer.
- [(15) (13) A reception desk.

(14) Twelve sanitary towels for each styling station in the salon.

(15) One sink with hot and cold running water that is readily accessible to each styling station in the work area of the salon.

(16) One multipurpose fire extinguisher suitable for use on Class A, B and C fires.

* * * * *

§ 7.71a. Equipment and supplies for [a cosmetician shop] an esthetician salon.

(a) [A cosmetician shop shall] An esthetician salon must contain the following equipment and supplies, which is considered the minimum equipment needed for a [shop] salon with one [cosmetician] esthetician:

* * * * *

- (2) One [dresserette] work station with mirror.
- (3) One labeled first-aid kit[.] containing the following items:
 - (i) An antiseptic.
 - (ii) Cotton balls.
 - (iii) Protective plastic or latex gloves.
 - (iv) A blood spill kit.
 - (v) A hazardous waste bag.
 - (vi) Eyewash.
 - (vii) Burn ointment.
 - (viii) Plastic or latex bandage strips of varying sizes and shapes.
 - (ix) Sterile gauze pads.

* * * * *

- (8) [One dry sterilizer] A closed container for sanitized implements.
- (9) One wet [sterilizer] sanitizer.

* * * * *

(12) Twelve sanitary towels for each work station in the salon.

(13) One sink with hot and cold running water that is readily accessible to each work station in the work area of the salon.

(14) One multipurpose fire extinguisher suitable for use on Class A, B and C fires.

(b) For each additional [cosmetician] esthetician, equipment and supplies shall be increased so that each [cosmetician] esthetician can render services safely and efficiently.

§ 7.71b. Equipment and supplies for a [manicuring shop] nail technology salon.

(a) A [manicuring shop shall] nail technology salon must contain the following equipment and supplies, which is considered the minimum equipment needed for a [shop] salon with one [manicurist] nail technician:

* * * * *

(4) One labeled first-aid kit containing the following items:

- (i) An antiseptic.
- (ii) Cotton balls.
- (iii) Protective plastic or latex gloves.
- (iv) A blood spill kit.
- (v) A hazardous waste bag.
- (vi) Eyewash.
- (vii) Burn ointment.
- (viii) Plastic or latex bandage strips of varying sizes and shapes.
- (ix) Sterile gauze pads.

* * * * *

(8) [Clean linen] Twelve sanitary towels for each work station in the salon.

(9) One wet [sterilizer] sanitizer.

(10) [One dry sterilizer] A closed container for sanitized implements.

* * * * *

(12) One sink with hot and cold running water that is readily accessible to each work station in the work area of the salon.

(13) One multipurpose fire extinguisher suitable for use on Class A, B and C fires.

(b) For each additional [manicurist] nail technician, equipment and supplies shall be increased so that each [manicurist] nail technician can render services safely and efficiently.

§ 7.71c. Equipment and supplies for a natural hair braiding salon.

(a) A natural hair braiding salon must contain the following equipment and supplies, which is considered the minimum equipment needed for a salon with one natural hair braider:

- (1) One adjustable chair.
- (2) One styling station with mirror.
- (3) One labeled first-aid kit containing the following items:
 - (i) An antiseptic.
 - (ii) Cotton balls.
 - (iii) Protective plastic or latex gloves.
 - (iv) A blood spill kit.
 - (v) A hazardous waste bag.
 - (vi) Eyewash.
 - (vii) Burn ointment.
 - (viii) Plastic or latex bandage strips of varying sizes and shapes.
 - (ix) Sterile gauze pads.
- (4) One dryer or blow dryer.
- (5) One shampoo tray or basin.
- (6) Twelve combs and twelve brushes.
- (7) One covered waste container.

(8) A closed storage area for soiled linen.

(10) One closed towel cabinet for clean linen.

(11) A closed container for sanitized implements.

(14) One wet sanitizer.

(15) A reception desk.

(16) Twelve sanitary towels for each styling station in the salon.

(17) One sink with hot and cold running water that is readily accessible to each styling station in the work area of the salon.

(18) One multipurpose fire extinguisher suitable for use on Class A, B and C fires.

(b) For each additional natural hair braider, equipment and supplies shall be increased so that each natural hair braider can render services safely and efficiently.

§ 7.75. Entrances.

The entrance to a [shop] salon that is located in a private home [shall] must permit clients to enter the [shop] salon directly from the public thoroughfare without passing through any part of the home.

§ 7.76. Floor space.

(a) The floor area of a [shop] salon operated by one licensee shall have a minimum area of 180 square feet with a minimum width of 10 feet. An additional area of at least 60 square feet is required for each additional licensee in the [shop] salon. The Board, upon an applicant's request, may grant a variance from the space requirements concerning a [shop] salon which the Board believes is reasonable.

(b) [Shops] Salons opened prior to September 15, 1976, which have been operating with one cosmetologist shall have sufficient floor space to properly install the equipment with regard to the health and safety of the patrons of the cosmetology [shop] salon. It is suggested that the floor space be a minimum of 10 feet by 12 feet or 120 square feet, with 60 square feet for each additional operator. The Board, after examination of the [shop's] salon's layout, may grant variance from the [shop] salon space requirements which the Board believes is reasonable.

§ 7.77. Use of [shop] salon for other purposes prohibited.

No part of a [shop] salon, including lavatories and laundry facilities, may be used for other purposes.

§ 7.78. Sign.

A [shop shall] salon must shall display, at or near its main entrance, a sign that is clearly visible indicating to the public that it is a cosmetology [shop] salon or limited practice salon.

§ 7.79. Lavatories.

A [shop] salon shall have adequate lavatories on the premises. For the purposes of this section, "on the premises" means within the square footage of the salon.

ACTIVITIES OUTSIDE A [SHOP] SALON

§ 7.81. Rendering of services outside a [shop] salon.

A cosmetologist or holder of a limited license, with the permission of the employing [shop] salon, may

render by **appointment** cosmetology or **limited license** services to persons at their residences and to persons who are confined to institutions due to illness, imprisonment, old age or similar circumstances.

§ 7.82. Record of services rendered outside a [shop] salon.

A [cosmetologist] licensee who renders [cosmetology] licensed services outside the [shop] salon shall maintain at the employing [shop] salon complete records for each service rendered outside the [shop] salon, including the date, time, place and fee charged. The record of outside services shall be considered part of the records of the [shop] salon.

§ 7.83. Responsibility of a [shop] salon for outside services.

A [shop that sponsors] salon through which appointments are made for the rendering of cosmetology or limited license services outside the [shop] salon shall be responsible for ensuring that the [cosmetologists] licensees are fully supplied and equipped when they perform services outside the [shop] salon and that all other requirements of this chapter are complied with.

HEALTH AND SAFETY IN [SHOPS] SALONS

§ 7.90. Applicability of requirements.

The requirements of this section and §§ 7.91—7.98 and 7.100 apply equally to cosmetology [shops, cosmetician shops and manicurist shops] salons, esthetician salons, nail technology salons and natural hair braiding salons, unless the context indicates otherwise.

§ 7.91. Sanitation and safety generally.

(a) A [shop shall] salon must be well lighted and well ventilated.

(b) All areas of the [shop] salon, including the floors and lavatories, shall be maintained in a safe, orderly and sanitary condition.

(c) Sharp implements shall be stored upright with the points down or in a protective case.

§ 7.92. [Sterilization] Sanitization of equipment.

Razors for hair, tweezers, combs, hairbrushes, and other tools, instruments, utensils and appliances that come into contact with a client shall be sanitized immediately after each use and maintained in a sanitary condition at all times.

§ 7.93. Sanitary use of towels.

(a) Only clean cloth towels or disposable paper towels shall be used on clients. Unused cloth towels shall be kept in a closed cabinet. Unused paper towels shall be kept in a closed cabinet or closed towel dispenser. A cloth towel that has been used on a client shall be immediately placed in a closed container for soiled linen. A disposable paper towel that has been used on a client shall be immediately discarded in a covered waste container.

* * * * *

§ 7.94. Sanitary use of supplies.

(a) The use of powder puffs or styptic pencils in a [shop] salon is prohibited.

* * * * *

(c) Creams and other semisolid substances shall be removed from their containers with a sterile spatula or similar utensil. The spatula or similar utensil may not be permitted to come into contact with the skin or hair of a client.

* * * * *

§ 7.95. Individual cleanliness.

Every [shop employe] salon employee who serves the public shall be clean as to person and dress and shall thoroughly cleanse the hands immediately before rendering services to a client and immediately after using the lavatory.

§ 7.98. Violation of related laws.

The license of a licensee who has pled guilty or nolo contendere to, or has been convicted of, a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or a similar State or Federal law, shall be subject to suspension or revocation under section [20] 13 of the act (63 P. S. § 519).

§ 7.100. Permanent wave [operation] operations and chemical applications.

A client may not be left unattended during the heating or processing period of a permanent wave operation or chemical application.

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:

* * * * *

(2) The name, signature and license number of the school supervisor, together with proof that the supervisor meets the following qualifications:

(i) Possesses a current [teacher's] cosmetology teacher license issued by the Board.

(ii) Has done one of the following:

* * * * *

(B) Acquired 1,250 hours of satisfactory experience as a cosmetology teacher and 1,800 hours of satisfactory work experience [as the designated person in charge of a cosmetology shop].

* * * * *

§ 7.114. School equipment and supplies.

(a) A school enrolling 25 students or less [shall] must have, at a minimum, the following equipment:

* * * * *

(4) Four [dry sterilizers] closed containers for sanitized implements.

(5) Four wet [sterilizers] sanitizers.

* * * * *

(9) Twelve [dresserettes] styling stations, mirrors and chairs.

* * * * *

(20) Two sanitary towels per student.

* * * * *

§ 7.115. Student equipment and supplies.

(a) A school shall ensure that each cosmetology student possesses and maintains in sanitary condition the following:

* * * * *

(3) One hair cutting razor.

* * * * *

(7) Complete tools for [manicuring] nail technology, including emery boards, [nipper or scissors,] pusher and brush.

* * * * *

(10) One pair of tweezers.

(b) A school shall ensure that each [cosmetician] esthetician student possesses and maintains in sanitary condition the following:

* * * * *

(c) A school shall ensure that each [manicuring] nail technology student possesses and maintains in sanitary condition the following:

* * * * *

(2) Complete tools for [manicuring] nail technology, including emery boards, [nipper or scissors,] pusher and brush.

* * * * *

(4) A basic [manicuring] nail technology textbook.

(d) A school shall ensure that each natural hair braiding student possesses and maintains in sanitary condition the following:

- (1) One shampoo cape.
- (2) One comb-out cape.
- (3) Two brushes.
- (4) Six combs.
- (5) A minimum of 100 pin curl clips.
- (6) A carrying case of sufficient size to accommodate the equipment and supplies used by the student.
- (7) A basic natural hair braiding textbook.

§ 7.118. Professional staff.

(a) A school shall employ as [instructors] teachers of courses that are part of the required curriculum persons who possess a current [teacher's] cosmetology teacher or limited practice teacher license issued by the Board, except that a school may employ as [instructors] teachers of business or teaching skills persons who hold a current teacher's certificate issued by the Department of Education.

(b) The [teacher's] license of each [instructor] teacher employed by the school shall be conspicuously displayed in the school.

(c) A school shall employ at least one full-time [instructor] teacher.

(d) The student/teacher ratio of a class taught for credit may not exceed 25 to 1, except if a guest lecture is given by a person who is not regularly employed by the school as an [instructor] teacher.

* * * * *

§ 7.118a. Uniforms.

Teachers and students shall be attired in washable uniforms during school hours. A [teacher's] teacher uniform [shall] must be distinguished from a [student's] student uniform.

§ 7.120. Work done by students on the public.

(a) A school may permit students who have completed at least 300 hours of instruction to work on the public, if the charges for the students' services are based on the reasonable cost of materials used on the client only.

* * * * *

§ 7.123. Duty work.

A school shall require students to keep their stations clean and to assist in general clean-up and other duties that may be required in an operating [shop] salon, except that students may not be required to scrub floors, wash windows or perform janitorial tasks.

§ 7.125. Health and safety in school.

A school shall observe the same health and safety requirements that are prescribed for [shops] salons in §§ 7.91—7.98, 7.100 and 7.101.

§ 7.128. Mandatory offering of cosmetology curriculum.

* * * * *

(b) A school may offer instruction in the curriculum for teachers, [cosmeticians and manicurists] estheticians, nail technicians and natural hair braiders prescribed in § 7.129.

§ 7.129. Curriculum requirements.

(a) Except as provided in subsection (b), a school's cosmetology curriculum, excluding electives, [shall] must comprise [1250] 1,250 hours, and cover the following subjects; the accompanying breakdown of hours by subject is recommended:

BASIC COSMETOLOGY CURRICULUM	Recommended Hours
Professional Practices	
Bacteriology, [Sterilization] Disinfection, Sanitation	
* * * * *	
PA [Beauty Culture] Cosmetology Law	
* * * * *	
Cosmetology Skills-Cognitive and Manipulative	1,000
* * * * *	
[Manicuring] Nail technology	
* * * * *	

(d) A school's [cosmetician] esthetics curriculum, excluding electives, [shall] must comprise 300 hours and cover the following subjects; the accompanying breakdown of hours by subject is recommended:

[COSMETICIAN] ESTHETICS CURRICULUM
* * * * *

(e) A school's [manicurist] nail technology curriculum, excluding electives, [shall] must comprise 200

hours and cover the following subjects: the accompanying breakdown of hours by subjects is recommended:

[MANICURING] NAIL TECHNOLOGY COURSE OUTLINE

* * * * *

(f) A school's natural hair braiding curriculum, excluding electives, must comprise 300 hours and cover the following subjects; the accompanying breakdown of hours by subjects is recommended:

NATURAL HAIR BRAIDING COURSE OUTLINE

	Recommended Hours
Professional practices, including sanitation	50
Sciences, including scalp care and anatomy	125
Cognitive and manipulative skills related to natural hair braiding	125
Total	300

PREPARATION BY APPRENTICESHIP METHOD

§ 7.131. Introduction.

An individual who chooses to seek eligibility for the [cosmetologist's] cosmetologist examination by apprenticeship shall comply with section 10 of the act (63 P. S. § 516) and the applicable requirements of this subchapter.

§ 7.132. Apprentice curriculum.

The cosmetology teacher responsible for offering instruction to an apprentice in a cosmetology [shop] salon shall teach the same cosmetology curriculum that the Board prescribes for schools of cosmetology in § 7.129 (relating to curriculum requirements) [.], with additional hours included so that the total number of hours adds up to 2,000, as follows:

BASIC COSMETOLOGY APPRENTICE CURRICULUM

Professional Practices	50
Bacteriology, Disinfection, Sanitation	
Professional Attitude	
Business Practices	
PA Cosmetology Law	
Sciences	200
Histology	
Trichology	
Chemistry	
Physiology	
Cosmetic Dermatology	
Electricity	
Cosmetology Skills-Cognitive and Manipulative	1,750
Shampooing	
Hair Shaping	
Hair Styling/Fingerwaving	
Permanent Waving	
Hair Coloring	
Hair Straightening	
Skin Care	
Nail Technology	
Temporary Hair Removal	
Scalp Treatment	
Care of all Hair Types and Textures	
Total	2,000

§ 7.133. Application for apprentice permit.

To qualify for apprenticeship training in a cosmetology [shop] salon, an individual shall apply to the Board for an apprentice permit.

§ 7.134. Apprentice reports.

The owner of a cosmetology [shop] salon that employs apprentices shall submit to the Board, on a form provided by the Board, a quarterly report of the hours earned by each apprentice. The reports shall be submitted by the following dates: April 15, July 15, October 15 and January 15.

[Pa.B. Doc. No. 07-1548. Filed for public inspection August 24, 2007, 9:00 a.m.]

STATE BOARD OF FUNERAL DIRECTORS

[49 PA. CODE CH. 13]

Preneed Funeral Arrangements

The State Board of Funeral Directors (Board) proposes to amend §§ 13.1, 13.224, 13.225 and 13.226 and to add §§ 13.227, 13.228 and 13.229 (relating to limitations on preneed funeral contracts; transfer of a preneed funeral contract by customer; and sale or transfer of preneed funeral contracts or preneed funeral funds by funeral director) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The proposed rulemaking is authorized under sections 13(c) and 16(a) of the Funeral Director Law (act) (63 P. S. §§ 479.13(c) and 479.16(a)).

Background and Need for the Amendment

Section 13(c) of the act requires that a funeral director who accepts money under a contract with a living person to render funeral services to that person when needed to forthwith deposit the money in an escrow account or transfer it in trust to a banking institution in this Commonwealth. The money may be withdrawn or disbursed only for the purposes for which it was deposited.

The Board's current regulations regarding preneed funeral arrangements were originally promulgated in 1977 and last amended in 1991. Current § 13.224 (relating to funding and reporting of prepaid burial contracts) requires a funeral director to place the funds received for preneed funeral arrangements into trust or escrow accounts kept separate from the funeral director's personal or business accounts and to make reports to the Board. Under § 13.226 (relating to nature and description of escrow or trust account for prepaid burial contracts), interest or other earnings from preneed funds must be kept together with the principal to assure delivery of the same quality of services and merchandise for which the preneed contract was entered.

The Board determined that the regulations need to be updated to conform to existing practices in the funeral industry and to provide adequate protection to the consumer of preneed services in the instance of changed

PUBLIC COMMENT
16A-4514 – GENERAL REVISIONS

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

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November 3, 2008

The Honorable Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation (Resubmission)
State Board of Cosmetology
16A-4514: General Revisions

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Cosmetology pertaining to General Revisions.

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/CKM:pah

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 & Senior Counsel in Charge
Department of State
Christopher K. McNally, Counsel
State Board of Cosmetology
State Board of Cosmetology

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

I.D. NUMBER: 16A-4514 (Resubmission)
SUBJECT: General Revisions
AGENCY: Department of State
State Board of Cosmetology

TYPE OF REGULATION

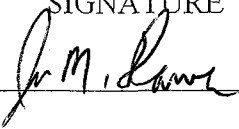
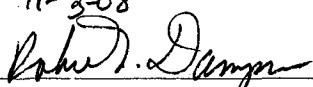
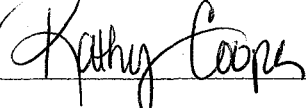
- Proposed Regulation
X Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

INDEPENDENT REGULATORY
REVIEW COMMISSION

2008 NOV -3 AM 10:40

RECEIVED

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
11/3/08		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIRMAN, <u>Mike Sturla</u>
11-3-08		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
11/3/08		INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only) LEGISLATIVE REFERENCE BUREAU (for Proposed only)