

2628

RECEIVED

2007 SEP 26 AM 9:50

INDEPENDENT REGULATORY  
REVIEW COMMISSION

September 21, 2007

Hilarene Staller  
State Board of Cosmetology  
PO Box 2649  
Harrisburg, PA 17105

RE: Regulation ID #16A-4514 (2628)

Dear Hilarene:

On behalf of the following private cosmetology schools represented by the Pennsylvania Association of Private School Administrators, we would like to offer comments regarding the proposed State Board of Cosmetology General Provisions.

Beaver Falls Beauty Academy  
Kittanning Beauty School  
New Castle Beauty School  
Butler Beauty School  
Laurel Business Institute  
Empire Beauty Schools (19 schools)  
Pruonto's Hair Design  
DeRielle Designworks Academy  
Atoona Beauty School  
Jean Madeline Education Center  
Lancaster School of Cosmetology  
Bucks County School of Beauty Culture  
Venus Beauty Academy  
Douglas Education Center  
Penn Commercial  
McCann School of Business (4 schools)  
Pennsylvania Beauty Academy  
Punxy Beauty School

- 7.1 The definition of "Esthetics" is incomplete. Based on standard, accepted practice, as well as textbook taught modalities, "eyelash perming" and "the use of industry standard mechanical and electrical apparatus" should be added to the definition. Both of these modalities are currently, and have been, used for many years.

The definition of Natural Hair Braiding is incomplete. In the exclusions section (ii) the word "cut" should be added so that it is clear that a natural hair braider cannot "alter the color or to straighten, curl, cut or alter the structure of the hair." Adding "cut" as an exclusionary practice is consistent with Act 99 of 2006.

- 7.31 It is unclear what constitutes acceptable proof of three year's work experience. We would suggest that the Board provide, either in these regulations or in the application package, examples of acceptable proof such as tax returns, pay stubs, etc.
- 7.32 - Setting a limit of one year between taking the written and practical exam, or  
7.35 retaking the exam after a failing grade, is reasonable. Yet, there are no consequences defined in the regulations for non-compliance. The Board should stipulate the sanctions, e.g. refresher hours, losing hours or starting over while allowing for mitigating personal circumstances. In addition, it was unclear when the year would start. Does the time clock start upon graduation from school, the first test application date or on the date of the first test? This could become an issue for students and the Board if not clarified.
- 7.32(d) Several schools read the hour transfer language two different ways. Some schools thought they were banned from accepting transfer hours from another school after four years. Others read that the school did not have to, but could elect to, transfer the requisite hours after four years, especially if the person had been working in the field during that four year period. Please clarify.
- 7.32(d)(c) The mandated transfer of hours from a limited license to a full cosmetology program is extremely problematic for schools. School faculty and administration are responsible for ensuring the competence and quality of cosmetologist graduates from their school. In addition, school staff must protect the health and safety of the general public by graduating people who are behaviorally correct in all sanitation and safety issues. The school certifies their graduates and puts their school reputation on the line with each graduate. With mandated transfer hours, schools cannot always ensure competence, quality and safety.  
For example:
- How can a school award mandated transfer hours to someone with a limited license who has not practiced in 4-5 years?

- How can a school award mandated transfer hours to a limited licensee who cannot pass a school administered practical or theory test?
- How can a school award mandated transfer hours to any limited licensees who received their license 10-15 years ago and have had a spotty practice.

**Based on schools using an objective assessment, we would recommend that the language in the proposed regulation be changed to “up to” so that each statement would read “will be given credit up to...hours.”**

7.43(c) In the initial issuance of a natural hair braider’s license issued without examination, there are no sanctions or consequences listed for non-compliance. Hair braiders who do not complete the requirement of 150 hours of education within the two-year time frame should be required to either pay a fine and complete the 150 hours within six months or take the entire 300 hour natural hair braiding program within six months or face further penalties.

7.120(a) and Section E.

This proposed change would have a severe impact and cause harm to students, schools and small salons near schools.

It is clear that students would be adversely affected. Student clinic overhead costs have always been covered by the clients who use the clinic services. If clients can no longer support clinic operations, students will have to make up the difference in higher tuition costs which will put a financial strain on them.

By charging only pennies for services, students would also be affected in another way. Ridiculously low pricing sends a negative message that a few cents is all a student’s skill is worth. Schools attempt to build a student’s self-esteem regarding their skills and their career choice. Low pricing denigrates and tears that work down.

Since the 1960’s, the interpretation of how and what to charge for student services has always taken into account the cost of the school clinic’s overhead for working on a client. This included, in addition to products, the cost of liability insurance to protect the student and school, the cost of rent, heat, electricity, wear and tear on the equipment, water and the cost of providing the clinic supervision mandated by law to ensure the safety of the general public. To deny reasonable overhead charges, would force the school to raise tuitions in order to support the clinic. In addition, if no school clinic overhead is allowed to be factored in, schools would only be able to charge a nominal fee for any service. This pricing would seriously undermine small salons in the local area, causing them to lose business, or driving them out of business.

Schools will also be harmed if reasonable pricing is disallowed. Since schools are held to strict financial stability ratios by the Federal government and by their accrediting commission, a substantial reduction in clinic revenue could

result in the lost of accreditation and Federal grant eligibility for students. A reduction in clinic revenue could also affect the school's Federally mandated 90/10 ratio, which requires schools to generate at least 10 percent of their revenue from non Title IV sources. It could also result in the loss of eligibility for students to participate in Title IV programs.

In order to avoid these consequences, schools would have to raise tuitions thus creating a financial hardship on students.

Several schools also wondered how inspectors would be able to assess the costs of a broad range of services, especially when the costs of products and materials vary so widely from school clinic to school clinic.

**We would suggest that this regulation be changed to include a statement allowing reasonable cost of overhead for services to school clinic clients.**

School clinics provide an important low-cost cosmetology service to the public. But the cost must be balanced with reasonable fees so students, schools and small local salons are not harmed.

There is another part of this regulation that appears to be a problem. It refers to a student who has completed 300 hours being permitted to work on the public. Clearly, this is intended to refer only to cosmetology students, since some programs are so short that by the time a student has completed 300 hours they have already graduated, as in esthetician, nail technology and natural hair braiding programs. Nail tech students should be able to work on the public after 50 hours, and natural hair braider students and esthetician students after 75 hours.

NOTE: In a 1999 Cosmetology Board Newsletter, there was a clarification of this regulation which included the 50 and 75 hour additions for manicurists and cosmeticians.

The schools believe, however, that the 50-75 hour issue should be stated in regulation, especially since at least one school was cited in 2007 for non-compliance. Additionally, the hair braider limited license should be included to allow for 75 hours to work on the public. /

- 7.129 The proposed regulation stipulates that the cosmetology curriculum "must comprise 1,250 hours." This has always been interpreted as a minimum standard based on the use of the deleted word "shall" (comprise 1250 hours). Many programs offer more than the requisite 1250 hours because of degree requirements and special curricular needs.
- We would, therefore, suggest that the term "a minimum of" be added so the sentence would read "must comprise a minimum of 1250 hours."**
- In addition the phrase "a minimum of" should be added to the following sections:**

- teacher's exams/hours 7.32b Sect.(a)(4) and 7.32b Sect.(b)(4)
- cosmetology hours/exams 7.32d Sect.(c)(1,2,3, & 4)
- esthetics 7.32e Sect.(a)(3)
- nail technicians 7.32f Sect.(a)(3)
- natural hair braiders 7.32h Sect.(a)(3)
- 7.29 Sections (a) through (f)

Thank you for considering our input.

Sincerely,

Richard Dumaresq, Ed.D.  
Executive Director

RD:ld