

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

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2010 SEP 30 A 10:23

IRRC Number:

2726

(1) Agency:

Department of State, Bureau of Professional and Occupational Affairs, State Board of Barber Examiners

(2) Agency Number: 16A

Identification Number: 427

(3) Short Title:

Student Records and Curriculum

(4) PA Code Cite:

49 Pa. Code §§ 3.71a, 3.72, 3.87, 3.90 and 3.103

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Cynthia Montgomery, Regulatory Counsel, Department of State
cymontgome@state.pa.us; (717) 783-7200 (phone); (717) 787-0251 (fax)

Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State
jmckeever@state.pa.us; (717) 783-7200 (phone); (717) 787-0251 (fax)

2601 N. 3rd Street, P.O. Box 2649; Harrisburg, PA 17105-2649

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

Section 3.71a (relating to notification) is being added to require the barbershop owner or shop owner's designee to notify the Board, on a form provided by the Board, of each student to be trained in the shop before the student begins training. It would also make it clear that the shop owner is responsible for ensuring that the Board is properly notified of each student to be trained in the shop and for maintaining all student records in a file available for inspection. Currently, §§ 3.72(a) and 3.87(a) (relating to student's records) require barbershops and barber schools to keep a student's blood test results on file. The final form rulemaking deletes this requirement to be consistent with amendments to the act. Sections 3.72 and 3.87 (relating to student's records) are amended to require barbershops and barber schools, respectively, to submit quarterly reports of student hours to the Board. The final form rulemaking also amends § 3.72 to clarify that the barbershop owner is responsible for keeping a student's records in a file. In its current form, § 3.90 (relating to student curriculum) does not address part-time work by students. The amendments to § 3.90 provide for part-time study. Section 3.90 is being amended to permit a student to request a transfer of credits for hours or months of study between barbershops, regardless of whether the barbershop is in-State or out-of-State and to clarify that credits can be transferred between a barbershop and a barber school, regardless of whether the barbershop or barber school is in-State or out-of State. Finally, the amendments add a fee of \$30 for certification of student status or student training hours. This fee will cover the administrative cost of providing the certification upon request.

(9) Include a schedule for review of the regulation including:

- | | |
|---------------------------------------------------------------------------------------------|------------------------------------|
| A. The date by which the agency must receive public comments: | <u>November 17, 2008</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>No later than November 2010</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon final publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>Upon final publication</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

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

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally quarterly. More information can be found on the Board's website (www.dos.state.pa.us/).

Regulatory Analysis Form

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

The regulation is authorized under section 15-A.4(b) of the act of June 19, 1931 (P.L. 589, No. 202) (63 P.S. § 566.4(b)), known as the Barbers' License Law (act).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The addition of § 3.71a, requiring notification of students to be trained in barbershops, will enable the Board to keep track of students training in barbershops and thereby ensure that they are properly trained and supervised. Under § 3.72 and § 3.87, the requirement for barbershops and barber schools to submit quarterly reports of student hours to the Board will enable the Board to ensure that the quarterly reports are being properly kept and will protect students from losing records in the event that the barbershop or barber school fails to preserve its records. Under § 3.72, the Board is clarifying that the barbershop owner is responsible for keeping a student's records in a file. This removes ambiguity in determining accountability.

Under § 3.72 and § 3.87, the requirement for barbershops and barber schools to keep a student's blood test results on file is being removed because the legislature removed this requirement by amending the Act on June 28, 2002. In recognition of the fact that a student may move from barbershop to barbershop, as well as between a barbershop and a barber school, the ability to request a transfer of credits between barbershops is being added to § 3.90. In recognition of the fact that we live in a mobile society, the ability to transfer credits without regard to whether the barbershop or barber school is in-state or out-of state is being added to § 3.90. Under § 3.90, the requirement of a daily schedule of at least 7 but not more than 8 hours per day is being removed because the act removed this requirement on December 22, 2005. Also under § 3.90, part-time study is being added to reflect the fact that there are people who would like to attend barber school but, for various reasons, they cannot attend on a full-time basis. In permitting students to attend barber school on a part-time basis, it is necessary to delete the requirement that gives each student the opportunity to devote at least 5 hours per day to practical work and to replace it with the requirement that gives each student the opportunity to devote a portion of time to practical work.

Under § 3.103, a fee of \$30 for certification of student or student training hours is being added to cover the administrative cost of providing the certification.

Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

No scientific data, studies or references were used in developing this rulemaking.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

The regulation will have a very minor adverse effect on barber shops and barber schools. The amendments will impose a minimal paperwork requirement by requiring shop owners to notify the Board, on a form provided by the Board, of each student to be trained in the shop. Barbershops and barber schools are already required to keep quarterly reports of the hours earned by a student. The regulation requiring barbershops and barber schools to submit the quarterly reports to the Board will not create any additional paperwork; it will only require them to provide reports that should already exist. Thus the only costs should be related to mailing these reports to the Board.

(16) 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 barber shops and barber schools will be required to comply with this regulation. As of May 2010, there were 16 licensed barber schools in Pennsylvania and 2,134 licensed barbershops.

SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There will be minimal costs to barbershops and schools in mailing the barbershop student registrations and quarterly reports to the Board. At present, there is no way for the Board to know how many shops currently have students in training. However, a shop may avoid those costs simply by not offering training to students. The fee for certification of student status or student training hours will be \$30. The Board has no way of knowing how many students may need this service. It may never be needed, but will be available if a school suddenly closes and student records are unavailable. The Board estimates that, at most, the annual cost to the regulated community in complying with the proposed rulemaking will be approximately \$1,500.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with compliance with the proposed rulemaking.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Board anticipates that there will be some minimal administrative costs associated with processing student registrations and maintaining records of student hours. Costs associated with certifying student hours will be borne by the student who requests this service.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 09-10	FY +1 Year 10-11	FY +2 Year 11-12	FY +3 Year 12-13	FY +4 Year 13-14	FY +5 Year 14-15
SAVINGS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community	\$0	\$1500	\$1500	\$1500	\$1500	\$1500
Local Government						
State Government						
Total Costs	\$0	\$1500	\$1500	\$1500	\$1500	\$1500
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

Regulatory Analysis Form

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

Program	FY -3 FY 06-07 Actual	FY -2 FY 07-08 Actual	FY -1 FY 08-09 Actual	Current FY FY 09-10 Projected
State Board of Barber Examiners	\$499,007	\$656,108	\$605,486	\$702,500

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The minimal costs of submitting notification and quarterly reports to the Board is outweighed by the benefits to the public and regulated community set forth above.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

In April of 2005, the Board sent an “exposure” draft to stakeholders and interested parties, including all of the barber schools, relating to examinations and part-time study in schools. The Board received comments from the Department of Corrections (there are a number of barber schools located at the state correctional institutions in Pennsylvania). Later, the proposal was revised and additional amendments were added addressing notification to the Board of student status and reporting of student hours, so a second “exposure” draft was sent out in February of 2006. The Board received comments from the Hair Cutters Guild, Inc.; and two individual barber teachers. All discussions regarding the proposal were held during regular public meetings of the Board. The Board published the proposed rulemaking in the Pennsylvania Bulletin on October 18, 2008 (38 Pa.B. 5759), requesting public comments within thirty days. No public comments were received.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

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 regulations.

There are no federal licensure standards.

Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

A survey of the laws of Delaware, Maryland, New Jersey, New York, Ohio and West Virginia was done. The results of the survey are summarized on the attachment and indicate that the proposed rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

Of the three surrounding states that permit students to train in barbershops (Delaware, Maryland, and New York), two of these states (Maryland and New York) require registration with the Board and one of these states (Maryland) requires the owner or a designated master barber to file a monthly report that states the progress of each apprentice barber employed by the barbershop. Two of the surrounding states (New Jersey and Ohio) require barber schools to file monthly reports, with New Jersey requiring uniform time sheets of daily attendance and Ohio requiring the number of clock hours of each student. Two of the surrounding states (New Jersey and Ohio) specifically provide for part-time study in barber schools. Four of the surrounding states (Maryland, New Jersey, Ohio and West Virginia) provide for some type of transfer of credits. None of the three states (Maryland, New Jersey and Ohio) that require barbershops or barber schools to file monthly reports have a separate fee for certification of student or student training hours.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed regulation would not affect other regulations of the Board or other state agencies.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The regulation will change existing paperwork requirements in that barbershops will be required to notify the Board, on a form provided by the Board, of each student to be trained in the shop. Barbershops and barber schools are already required to keep quarterly reports of the hours earned by a student. The regulation requiring barbershops and barber schools to submit the quarterly reports to the Board, on a form provided by the Board, will not create any additional paperwork; it will only require them to provide reports that already exist. Draft forms are attached.

(28) 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 licenses for whom special accommodations should be made.

Regulatory Analysis Form

RAF ATTACHMENT

16A-427

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states? (continued)

A survey of surrounding states revealed the following:

§3.71 (notification of student training in the shop)

Delaware: The law provides for an apprenticeship program in the shops but does not require shops to notify the Board of each student who is training as an apprentice.

Maryland: The law requires an individual to be registered with the Board before the individual may serve as an apprentice in a barbershop; the regulations contain apprenticeship registration requirements, one of which is approval by the Board; the regulations require the holder of a barbershop permit to ensure that all employees of the shop are properly licensed or registered.

New Jersey: N/A (students only train in schools)

New York: The law requires each applicant for a certificate of registration as an apprentice to apply to the Board for a certificate of registration.

Ohio: N/A (students only train in schools)

West Virginia: N/A (students only train in schools)

§3.72 (submission of reports)

Delaware: No requirement for submission of reports to the Board.

Maryland: For apprentices training in shops, the law requires the owner or a designated master barber to file a monthly report, on a form supplied by the Board, that states the progress of each apprentice barber employed by the barbershop and that identifies the master barber supervising each apprentice barber. The regulations clarify that the master barber who supervises an apprentice is responsible for filing the monthly reports.

New Jersey: The regulations require schools to forward uniform time sheets of daily attendance records for each student to the office of the Board at the end of each month. There is not a similar regulation for shops because students do not train in shops.

New York: No requirement for submission of reports to the Board.

Regulatory Analysis Form

Ohio: The regulations require each barber school to report to the Board on or before the fifteenth of each month, the number of clock hours of each student and the total number of clock hours of all students in attendance during the preceding month. There is not a similar regulation for shops because students do not train in shops.

West Virginia: No requirement for submission of reports to the Board.

§3.90 (part-time study in barber schools)

Delaware: The law provides that school owners have the option of the amount of hours of training per day, not to exceed 10 hours, and are able to choose which days of the week the student works, provided the hours accumulated do not exceed 40 hours per week; however, upon a written agreement signed by the school owners and the student, the student may work more than 10 hours per day or 40 hours per week.

Maryland: The Board does not approve barber schools. They are approved by the State Board of Education or the Maryland Higher Education Commission.

New Jersey: The regulations provide for part-time study of 20 hours or less per week; full-time study of more than 20 hours per week up to a maximum of 40 hours per week; and designated make-up classes, provided that the total class hours for any week do not exceed 48.

New York: The Board does not regulate the study of barbering in schools; barbering schools are licensed pursuant to the education law.

Ohio: The regulations provide for part-time study of less than forty hours per week but require a student to be scheduled to attend school for a minimum of three clock hours per day.

West Virginia: There is no specific mention of part-time study. The regulations seem to indicate that part-time study is not an option, in that they require all school to establish regular school hours (not to exceed 8 hours in any 24 hours period) and they provide that all schools shall require that all students attend classes at least eighty percent of the time that they are enrolled in school.

§3.90 (transfer of credits)

Delaware: The law and regulations do not include any provisions for transfer of credits.

Maryland: The law and regulations do not include any provisions for transfer of credits between barber shops; however, the law provides for transfer of credits between a barber school and a barbershop, if the barber school where the applicant completes the training is located in a detention center or correctional facility and if the barber school is approved by the State Department of Education or the Maryland Higher Education Commission or has a curriculum similar to one that is approved by the State Department of Education or the Maryland Higher Education Commission.

Regulatory Analysis Form

New Jersey: The regulations provide for transfer of credits between in-state schools and out-of-state schools. There is not a similar regulation for shops because students do not train in shops.

New York: The Board does not regulate the study of barbering in schools; barbering schools are licensed pursuant to the education law.

Ohio: The regulations provide for transfer of credits from one barber school to another within the state of Ohio, upon obtaining written permission from the Board. There is not a similar regulation for shops because students do not train in shops.

West Virginia: The regulations provide for transfer of credits from out-of-state schools. There is not a similar regulation for shops because students do not train in shops.

§3.103 (fee for certification of student or student training hours)

Delaware: N/A (shops and schools are not required to submit quarterly reports to the Board)

Maryland: There is not a separate fee for certification of student hours. The regulation provides for a certification fee of \$25.00 to certify the licensing, registration or permit status and qualifications of any person.

New Jersey: Fee is not specified in statute or regulations.

New York: N/A (shops are not required to submit quarterly reports to the Board; schools are not regulated by the Board)

Ohio: There is not a separate fee for certification of student hours. The statute provides for a fee of \$40.00 for providing licensure information to an applicant whereas the regulations provide for a fee of \$25.00 for providing licensure information to an applicant.

West Virginia: N/A (the law does not require schools to submit quarterly reports to the Board)

FEE REPORT FORM

Agency: State - BPOA

Date: 12/24/2007

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

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Certify Student Status or Student Training Hours: \$30.00
Estimated Biennial Revenue: \$2,250.00 (75 applications x \$30.00)

Fee Description:

The fee will be charged to every applicant for certification of student status or student training hours.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Barber Examiners to process a request for certification of student status or student training hours and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time-process application (0.75 hr)	14.70
Administrative Overhead:	<u>14.75</u>
Total Estimated Cost:	\$ 29.45
Proposed Fee:	\$ 30.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$30.00 be established for processing a request for certification of student status or student training hours.

Board Staff - receives request to report student status or student training hours recorded in Pennsylvania to another state board and/or out of state school, researches computer, microfilm or other files to retrieve information, transfers that information onto document submitted by requester, affixes Bureau seal onto documents, forwards as instructed by applicant.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

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IRRC

2010 SEP 30 A 10:23

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

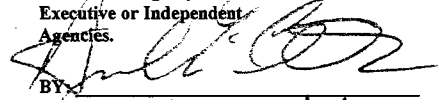
Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Barber Examiners
(AGENCY)


BY: _____

Andrew C. Clark


DOCUMENT/FISCAL NOTE NO. 16A-427

SEP 21 2010

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: 
L. Anthony Spossey

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

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable
Copy not approved.
Objections attached.
- Check if applicable.
No Attorney General approval
or objection within 30 day
after submission.

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF BARBER EXAMINERS
49 PA. CODE, CHAPTER 3
§§ 3.71a, 3.72, 3.87, 3.90 and 3.103

STUDENT RECORDS AND CURRICULUM

The State Board of Barber Examiners (Board) hereby adds § 3.71a (relating to notification) and amends §§ 3.72, 3.87, 3.90 and 3.103, pertaining to student records in barbershops and barber schools, to read as set forth in Annex A.

Effective date

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

Statutory Authority

The regulation is authorized under section 15-A.4(b) of the act of June 19, 1931 (P.L. 589, No. 202) (63 P.S. § 566.4(b)), known as the Barbers' License Law (act).

Background, Purpose and Description of Amendments

Under section 3(a) of the act, (63 P.S. § 553), prior to taking the barber's license examination, an applicant is required to have completed a barbering study and training period of at least 1,250 hours in not less than 9 months in either a licensed barbershop under the instruction of a licensed teacher or a licensed manager-barber, or in a licensed barber school under the instruction of a licensed teacher. Section 5 of the act (63 P.S. § 555) requires barbershops and barber schools to keep a daily record of the attendance of each student. The Board's existing regulations require barbershops and barber schools to maintain student records for inspection by the Board. As of May 2010, there were 16 licensed barber schools in Pennsylvania as compared to 2,134 barbershops. Currently, the Board is not notified that a student is training in a barbershop. Due to the large number of barbershops, it is not feasible for the Board to inspect all of those shops to determine whether a student is training in a shop at any given point in time. If the Board cannot determine whether a student is training in a shop, then the Board cannot ensure that the shop is keeping proper records and that either a barber-manager or barber-teacher is instructing the student. In order to remedy this situation, § 3.71a (relating to notification) is being added to require the barbershop owner or shop owner's designee to notify the Board, on a form provided by the Board, of each student to be trained in the shop before the student begins training. It would also make it clear that the shop owner is responsible for ensuring that the Board is properly notified of each student to be trained in the shop and for maintaining all student records in a file available for inspection.

Section 5 of the act (63 P.S. § 555) was amended on June 28, 2002, to eliminate the requirement for barbershops and barber schools to keep a record of blood test results. Currently, §§ 3.72(a) and 3.87(a) (relating to student's records) require barbershops and barber schools to keep a student's blood test results on file. The final form rulemaking deletes this requirement to be consistent with the amendments to the act.

Currently, § 3.72(b) requires a manager-barber or barber-teacher who is training a student in a barbershop to keep quarterly reports of the hours earned by the student. Likewise, § 3.87(b) requires barber schools to keep quarterly reports of the hours earned by the student. It is not feasible for the Board to inspect every barbershop and barber school on a quarterly basis to determine whether they are maintaining the quarterly hours as required. In addition, barbershops and barber schools are currently required to maintain student records for a 5-year period and to forward the student's file to the Board if the shop or school closes within the 5-year period. Situations have arisen in which a barbershop or barber school has closed without forwarding its records to the Board, in which case some students have been unable to document that they had completed the training period required to take the barber's license examination. Therefore, §§ 3.72 and 3.87 (relating to student's records) are amended to require barbershops and barber schools, respectively, to submit quarterly reports of student hours to the Board so that the Board can ensure that the quarterly reports required under these sections are being properly maintained and that students would not be adversely affected if a barbershop or barber school failed to preserve its records for a 5-year period as required. The final form rulemaking also amends § 3.72 to clarify that the barbershop owner is responsible for keeping a student's records in a file.

On December 22, 2005, section 12(b) of the act (63 P.S. § 562(b)), was amended to delete the requirement that class and instruction hours in barber schools have to be not less than 7 nor more than 8 hours per day. Consistent with this statutory amendment, the final form rulemaking removes the language that was deleted from the act. In its current form, § 3.90 (relating to student curriculum) does not address part-time work by students. The amendments to § 3.90 provide for part-time study by permitting a student to earn credit for the number of hours per day that the student is in attendance, up to a maximum of 8 hours of credit per day and 40 hours of credit per week. By permitting part-time study in barber schools, students who cannot attend barber school on a full-time basis will still have the opportunity to become barbers. In addition, the requirement that each student shall have an opportunity to devote at least 5 hours per day to practical work has been amended to provide that each student shall have an opportunity to devote at least 60% of class time to practical work.

The Board's existing regulations provide that a student may request a transfer of credits for hours or months of study between a barbershop and a barber school if the student passes a test that is based on the number of hours attended and the subjects pursued and the test is devised by the shop or school to place him in the appropriate courses. However, they do not specify whether credits can be transferred from out-of-State barbershops and barber schools, nor do they provide for transfers of credits between barbershops. Therefore, § 3.90 is being amended to permit a student to request a transfer of credits for hours or months of study between barbershops, regardless of whether the barbershop is in-State or out-of-State and to clarify that credits can be transferred between a barbershop and a barber school, regardless of whether the barbershop or barber school is in-State or out-of State.

Finally, the amendments add a fee of \$30 for certification of student status or student training hours. This fee will cover the administrative cost of providing the certification upon request.

Summary of Comments and the Board's Response

The Board published the proposed rulemaking in the Pennsylvania Bulletin on October 18, 2008 (38 Pa.B. 5759), requesting public comments within thirty days. No public comments were received. On November 17, 2008, the House Professional Licensure Committee (HPLC) met and voted to take no formal action on the proposed rulemaking until the final regulation is promulgated and to submit one comment to the Board. The Board received no comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). On December 17, 2008, the Board received a letter from the Independent Regulatory Review Commission (IRRC) indicating that they had no objections, comments or recommendations to offer on the proposed regulation.

The HPLC asked whether a student can request a transfer of credit hours between barber schools regardless of the in-State or out-of State location, as well as between barbershops and between barbershops and barber schools. The Board is aware that the transfer of credits between barber schools is complicated by the fact that some of the barber schools licensed by the Board are private licensed schools, some are community colleges, some are vocational-technical schools; and others are part of the Pennsylvania Department of Corrections offered through the state correctional institutions. The Board prefers to leave questions regarding transfer of credits between two barber schools (whether in-State or out-of State) to the schools themselves because individual school transfer policies are often linked to accreditation standards, host institution policies, articulation agreements between schools, the rules and regulations of other states and other factors. However, given that the goal of these amendments is to expand opportunities for barber students to complete their education and be able to freely transfer credits wherever possible, the Board would encourage barber schools to consider the most expansive transfer policy possible within these constraints.

The Board has elected to make no changes to the final form rulemaking based on the comment received.

Fiscal Impact and Paperwork Requirements

The Board is unable to determine the specific costs associated with the amendments, but it is anticipated that there will be some administrative costs to barbershops and schools in complying with the notification, recordkeeping and reporting requirements relating to students.

The amendments will impose additional paperwork requirements upon the Commonwealth, with respect to maintaining records of students being trained in barbershops and with maintaining

quarterly reports. The amendments will impose a minimal paperwork requirement upon the private sector by requiring shop owners to notify the Board, on a form provided by the Board, of each student to be trained in the shop. Barbershops and barber schools are already required to keep quarterly reports of the hours earned by a student. The regulation requiring barbershops and barber schools to submit the quarterly reports to the Board will not create any additional paperwork; it will only require them to provide reports that should already exist.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 3, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 5759 (October 18, 2009), to the House Professional Licensure Committee (HPLC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the Independent Regulatory Review Commission (IRRC) for review and comment.

No public comments were received nor did the SCP/PLC or IRRC submit any comments to the Board regarding the proposed rulemaking. The HPLC provided one comment to the Board, which was considered in promulgating this final form rulemaking.

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 _____, 2010, and deemed approved by SCP/PLC on _____, 2010. Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), the final regulation was deemed approved by IRRC on _____, 2010.

Contact Person

Further information may be obtained by contacting Kelly Diller, Board Administrator, State Board of Barber Examiners, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The State Board of Barber Examiners 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 no public comments were received.

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

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 3, §§ 3.71a, 3.72, 3.87, 3.90 and 3.103, 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*.

L. Anthony Spossey
Chairperson
State Board of Barber Examiners

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART 1. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 3. STATE BOARD OF BARBER EXAMINERS

STUDY IN BARBER SHOPS

§ 3.71a. Notification.

(a) The shop owner or the shop owner's designee shall notify the Board, on a form provided by the Board, of each student to be trained in the shop. Notification shall be provided to the Board before the student begins training.

(b) The shop owner is responsible for ensuring that proper notification is provided to the Board under subsection (a).

§ 3.72. Student's records.

(a) [Student records shall be kept] The shop owner shall keep, at all times and for inspection by the Board's representative, a file of each student which [shall include] includes proofs of age, education, [blood test results,] daily attendance and progress. The file shall be provided to the student at the student's request. The file shall be maintained for at least 5 years, beginning with the date when the student studies in the shop. If the shop is closed within this 5-year period, the student's file shall be forwarded to the Board and the student shall be so notified by the shop.

* * * * *

(c) The shop owner is responsible for ensuring that the quarterly reports required under subsection (b) are properly maintained by the manager-barber or barber-teacher.

(d) The shop owner shall submit to the Board, on a form provided by the Board, a quarterly report of the hours earned by each student trained in the shop. The quarterly reports shall be submitted to the Board by the following dates – April 15, July 15, October 15 and January 15 – for the preceding quarter. Each quarterly report must include the name and license number of the manager-barber or barber-teacher instructing the student and be personally signed by the shop owner and the student.

* * * * *

SCHOOLS OF BARBERING

* * * * *

§ 3.87. Student's records.

(a) Each school shall keep, at all times and for inspection by the [Board] Board's representative, a file of each student regarding proofs of age, education, [blood test results,] daily attendance and progress. The file shall be provided to the student at the student's request. The file shall be maintained for at least 5 years, beginning with the date when the student attends the school. If the school is closed within this 5-year period, the student's files shall be forwarded to the Board and the students shall be so notified by the school.

* * * * *

(c) Each school shall submit to the Board, on a form provided by the Board, a quarterly report of the hours attended by each student. The quarterly reports shall be submitted by the following dates – April 15, July 15, October 15 and January 15 – for the preceding quarter. Each quarterly report must include the names and license numbers of teachers employed by the school and be personally signed by the owner and supervisor of the school.

* * * * *

§ 3.90. Student curriculum.

(a) Each school shall post schedules showing the schedules of classes in theory and practical work. [The daily schedule shall be at least 7 but not more than 8 hours for each day the school is in session.] Each student shall have an opportunity to devote [at least 5 hours per day] at least 60% of class time to practical work. For each of these class periods the teacher in charge shall keep an accurate daily record of attendance and progress of each student.

(b) A student may earn credit for the number of hours per day that the student is in attendance.

(c) A student may earn a maximum of 8 hours of credit per day and a maximum of 40 hours of credit per week.

(d) * * *

[(c)] (e) * * *

[(d)] (f) * * *

[(e)] (g) * * *

[(f)] (h) * * *

[(g)](i) A student may request a transfer of credits for hours or months of study between a barbershop and [abarber] a barber school or between shops, whether the barbershop or barber school is in-State or out-of State, if the student passes a test which is based on the number of hours attended and the subjects pursued and is devised by the shop or the school to place [him] the student in the appropriate courses.

[(h)] (j) * * *

* * * * *

§ 3.103. Fees.

The schedule of fees charged by the Board is as follows:

* * * * *

Certification of student status or student training hours\$30

* * * * *

PROPOSED RULEMAKING

STATE BOARD OF BARBER EXAMINERS

[49 PA. CODE CH. 3]

Student Records and Curriculum

The State Board of Barber Examiners (Board) proposes to add § 3.71a (relating to notification) and to amend §§ 3.72, 3.87, 3.90 and 3.103, pertaining to student records in barbershops and barber schools, to read as set forth in Annex A.

A. *Effective Date*

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

B. *Statutory Authority*

The proposed rulemaking is authorized under section 15-A.4(b) of the act of June 19, 1931 (P. L. 589, No. 202) (63 P. S. § 566.4(b)), known as the Barbers' License Law (act).

C. *Background and Purpose*

Under section 3(a) of the act (63 P. S. § 553(a)), prior to taking the barber's license examination, an applicant is required to have completed a barbering study and training period of at least 1,250 hours in not less than 9 months in either a licensed barbershop under the instruction of a licensed teacher or a licensed manager-barber, or in a licensed barber school under the instruction of a licensed teacher. Section 5 of the act (63 P. S. § 555) requires barbershops and barber schools to keep a daily record of the attendance of each student. The Board's existing regulations require barbershops and barber schools to maintain student records for inspection by the Board. As of May 23, 2008, there were 20 barber schools in this Commonwealth as compared to 2,744 barbershops. Currently, the Board is not notified that a student is training in a barbershop. Due to the large number of barbershops, it is not feasible for the Board to inspect all of those shops to determine whether a student is training in a shop at any given point in time. If the Board cannot determine whether a student is training in a shop, then the Board cannot ensure that the shop is keeping proper records and that either a barber-manager or barber-teacher is instructing the student. To remedy this situation, the proposed rulemaking would require the shop owner or the shop owner's designee to notify the Board, on a form provided by the Board, of each student to be trained in the shop before the student begins training. It would also make it clear that the shop owner is responsible for ensuring that the Board is properly notified of each student to be trained in the shop and for maintaining all student records in a file available for inspection.

Section 5 of the act was amended on June 28, 2002, to eliminate the requirement for barbershops and barber schools to keep a record of blood test results. Currently, §§ 3.72(a) and 3.87(a) (relating to student's records) require barbershops and barber schools to keep a student's blood test results on file. The proposed rulemaking would delete this requirement to be consistent with the amendments to the act.

Currently, § 3.72(b) requires a manager-barber or barber-teacher who is training a student in a barbershop to keep quarterly reports of the hours earned by the

student. Likewise, § 3.87(b) requires barber schools to keep quarterly reports of the hours earned by the student. It is not feasible for the Board to inspect every barbershop and barber school on a quarterly basis to determine whether they are maintaining the quarterly hours as required. Therefore, to ensure that barbershops and barber schools are maintaining the quarterly hours as required, the proposed rulemaking would require barbershops and barber schools to submit quarterly reports to the Board of the hours earned by each student. In addition, barbershops and barber schools are currently required to maintain student records for a 5-year period and to forward the student's file to the Board if the shop or school closes within the 5-year period. Situations have arisen in which a barbershop or barber school has closed without forwarding its records to the Board, in which case some students have been unable to document that they had completed the training period required to take the barber's license examination. The proposed requirement that barbershops and barber schools submit quarterly reports of student hours to the Board would assure that students would not be adversely affected if a barbershop or barber school failed to preserve its records for a 5-year period as required.

On December 22, 2005, section 12(b) of the act (63 P. S. § 562(b)), was amended to delete the requirement that class and instruction hours in barber schools have to be at 7 but not more than 8 hours per day. Consistent with this statutory amendment, the proposed rulemaking would remove the same language that was deleted from the act. In its current form, § 3.90 (relating to student curriculum) does not address part-time work by students. Proposed amendments to § 3.90 would provide for part-time study by permitting a student to earn credit for the number of hours per day that the student is in attendance, up to a maximum of 8 hours of credit per day and 40 hours of credit per week. By permitting part-time study in barber schools, students who cannot attend barber school on a full-time basis will still have the opportunity to become barbers. In addition, the proposed rulemaking would delete the requirement that each student shall have the opportunity to devote at least 5 hours per day (out of the 7 to 8 previously required) to practical work and replaces it with the requirement that each student have the opportunity to devote at least 60% of class time to practical work.

The Board's current regulations provide that a student may request a transfer of credits for hours or months of study between a barbershop and a barber school if the student passes a test that is based on the number of hours attended and the subjects pursued and the test is devised by the shop or school to place him in the appropriate courses. However, they do not specify whether credits can be transferred from out-of-State barbershops and barber schools, nor do they provide for transfers of credits between barbershops. The proposed amendments would clarify that credits can be transferred between a barbershop and a barber school, or between barbershops, whether the barbershop or barber school is in-State or out-of-State.

Finally, the proposed rulemaking would add a fee of \$30 for certification of student status or student training hours. This fee will cover the administrative cost of providing the certification upon request.

D. Description of Proposed Amendments

The proposed rulemaking proposes to add § 3.71a (relating to notification) to require the barbershop owner or shop owner's designee to notify the Board of students to be trained in a barbershop before the student begins training, so that the Board can keep track of students training in barbershops and ensure that they are properly trained and supervised. The proposed rulemaking would make it clear that the shop owner is responsible for ensuring that proper notification is provided to the Board.

The proposed rulemaking proposes to amend §§ 3.72 and 3.87 to require barbershops and barber schools, respectively, to submit quarterly reports of student hours to the Board so that the Board can ensure that the quarterly reports required under these sections are being properly kept and so that the Board will have a record of student hours in the event that barbershops and barber schools fail to preserve their records as required under these sections. The proposed rulemaking also proposes to amend § 3.72 to clarify that the barbershop owner is responsible for keeping a student's records in a file.

The proposed rulemaking would also amend §§ 3.72 and 3.87 to delete the requirement for barbershops and barber schools, respectively, to keep a student's blood test results on file. These amendments are consistent with an amendment to the act that deleted this requirement.

The proposed rulemaking proposes to amend § 3.90 to delete the requirement that the daily schedule at barber schools must be at least 7 but not more than 8 hours for each day the school is in session. This amendment is consistent with an amendment to the act that deleted this requirement. The proposed rulemaking also proposes to amend § 3.90 to allow for part-time student attendance at barber schools so that students who cannot attend school on a full-time basis will have the opportunity to become barbers. In addition, the requirement that each student shall have an opportunity to devote at least 5 hours per day to practical work has been amended to provide that each student shall have an opportunity to devote at least 60% of class time to practical work.

The proposed rulemaking would also amend § 3.90 to permit a student to request a transfer of credits for hours or months of study between barbershops, regardless of whether the barbershop is in-State or out-of-State and to clarify that credits can be transferred between a barbershop and a barber school, regardless of whether the barbershop or barber school is in-State or out-of-State.

The proposed rulemaking proposes to amend § 3.103 (relating to fees) to include a fee of \$30 to cover the administrative cost of providing a certification of student status or student training hours.

E. Fiscal Impact and Paperwork Requirements

The Board is unable to determine the specific costs associated with the proposed amendments, but it is anticipated that there will be some administrative costs to barbershops and schools in complying with the notification, recordkeeping and reporting requirements relating to students.

The proposed rulemaking will impose additional paperwork requirements upon the Commonwealth, with respect to maintaining records of students being trained in barbershops and with maintaining quarterly reports. The proposed rulemaking will impose a minimal paperwork requirement upon the private sector by requiring shop owners to notify the Board, on a form provided by the Board, of each student to be trained in the shop. Barber-

shops and barber schools are already required to keep quarterly reports of the hours earned by a student. The regulation requiring barbershops and barber schools to submit the quarterly reports to the Board will not create any additional paperwork; it will only require them to provide reports that should already exist.

F. Sunset Date

The Board continuously monitors the cost effectiveness of 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 October 3, 2008, 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 Senate Consumer Protection and Professional Licensure Committee and the House 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 that 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 this proposed rulemaking to Christopher McNally, Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-427 (Student Records and Curriculum), when submitting comments.

VINCENT IACONO,
Chairperson

Fiscal Note: 16A-427. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART 1. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 3. STATE BOARD OF BARBER EXAMINERS

STUDY IN BARBER SHOPS

§ 3.71a. Notification.

(a) The shop owner or the shop owner's designee shall notify the Board, on a form provided by the Board, of each student to be trained in the shop. Notification shall be provided to the Board before the student begins training.

(b) The shop owner is responsible for ensuring that proper notification is provided to the Board under subsection (a).

§ 3.72. Student's records.

(a) [Student records shall be kept] The shop owner shall keep, at all times and for inspection by the Board's representative, a file of each student which [shall include] includes proofs of age, education, [blood test results,] daily attendance and progress. The file shall be provided to the student at the student's request. The file shall be maintained for at least 5 years, beginning with the date when the student studies in the shop. If the shop is closed within this 5-year period, the student's file shall be forwarded to the Board and the student shall be so notified by the shop.

* * * * *

(c) The shop owner is responsible for ensuring that the quarterly reports required under subsection (b) are properly maintained by the manager-barber or barber-teacher.

(d) The shop owner shall submit to the Board, on a form provided by the Board, a quarterly report of the hours earned by each student trained in the shop. The quarterly reports shall be submitted to the Board by the following dates—April 15, July 15, October 15 and January 15—for the preceding quarter. Each quarterly report must include the name and license number of the manager-barber or barber-teacher instructing the student and be personally signed by the shop owner and the student.

SCHOOLS OF BARBERING

§ 3.87. Student's records.

(a) Each school shall keep, at all times and for inspection by the [Board] Board's representative, a file of each student regarding proofs of age, education, [blood test results,] daily attendance and progress. The file shall be provided to the student at the student's request. The file shall be maintained for at least 5 years, beginning with the date when the student attends the school. If the school is closed within this 5-year period, the student's files shall be forwarded to the Board and the students shall be so notified by the school.

* * * * *

(c) Each school shall submit to the Board, on a form provided by the Board, a quarterly report of the hours attended by each student. The quarterly reports shall be submitted by the following dates—April 15, July 15, October 15 and January 15—for the preceding quarter. Each quarterly report must

include the names and license numbers of teachers employed by the school and be personally signed by the owner and supervisor of the school.

§ 3.90. Student curriculum.

(a) Each school shall post schedules showing the schedules of classes in theory and practical work. [The daily schedule shall be at least 7 but not more than 8 hours for each day the school is in session.] Each student shall have an opportunity to devote [at least 5 hours per day] at least 60% of class time to practical work. For each of these class periods, the teacher in charge shall keep an accurate daily record of attendance and progress of each student.

(b) A student may earn credit for the number of hours per day that the student is in attendance.

(c) A student may earn a maximum of 8 hours of credit per day and a maximum of 40 hours of credit per week.

(d) * * *

[(c)] (e) * * *

[(d)] (f) * * *

[(e)] (g) * * *

[(f)] (h) * * *

[(g)] (i) A student may request a transfer of credits for hours or months of study between a barbershop and [a barber] a barber school or between shops, whether the barbershop or barber school is in-State or out-of State, if the student passes a test which is based on the number of hours attended and the subjects pursued and is devised by the shop or the school to place [him] the student in the appropriate courses.

[(h)] (j) * * *

§ 3.103. Fees.

The schedule of fees charged by the Board is as follows:

* * * * *

Certification of student status or student training hours \$30

[Pa.B. Doc. No. 08-1885. Filed for public inspection October 17, 2008, 9:00 a.m.]

COMMENTATORS LIST
REGULATION 16A-427

No Public Comments were received on this regulation.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF BARBER EXAMINERS

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) -783-3402

September 30, 2010

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

Re: Final Regulation
State Board of Barber Examiners
16A-427 – Student Records and Curriculum

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Barber Examiners pertaining to Student Records and Curriculum.

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 "L. Anthony Spossey".

L. Anthony Spossey, Chairperson
State Board of Barber Examiners

LAS/CKM:pah

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
David Markowitz, Counsel
State Board of Barber Examiners
State Board of Barber Examiners

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

I.D. NUMBER: 16A-427
 SUBJECT: STUDENT RECORDS AND CURRICULUM
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF BARBER EXAMINERS

TYPE OF REGULATION

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

**RECEIVED
IRRC
2010 SEP 30 A 10:23**

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
_____	_____	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/30/10	<i>Clairne Nichols</i>	MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
9/30/10	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
_____	_____	MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
9/30/10	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)