

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRRC's website)

(1) Agency

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

(2) Agency Number: 16A

Identification Number: 16A-4515

IRRC Number: 2996

(3) PA Code Cite: 49 Pa. Code § 7.2

(4) Short Title: Fees

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

Primary Contact: **Cynthia K. Montgomery, Regulatory Counsel, Department of State, P.O. Box 2649, Harrisburg, PA 1105-2649 (phone 717-783-7200) (fax 787-0251) cymontgome@pa.gov.**

Secondary Contact: **Juan Ruiz, Counsel, State Board of Cosmetology, P.O. Box 2649, Harrisburg, PA 17105-2649 (phone 717-783-7200) (fax 787-0251) jruiz@pa.gov.**

(6) 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

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

The proposed rulemaking would provide for increases to the biennial license renewal fees for all licensees of the State Board of Cosmetology and would also adjust certain application fees to cover the costs of processing those applications.

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

Section 16(d) of the Beauty Culture Law (Act) (63 P.S. § 522(d)) (act) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period.

(9) 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.

Except as set forth in paragraph (8), the regulation is not mandated by any federal or state law or court order or federal regulation.

(10) 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.

Under Section 16(d) of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board must increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the vast majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees.

In 2009, the Board had voted to increase biennial renewal fees by 75% and to increase various application fees to cover the costs associated with processing the applications. However, due to circumstances beyond the Board's control, the regulations to implement those increases were not promulgated since that time.

Subsequently, at the July 9, 2012, Board meeting, representatives of the Department's Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for fiscal years 2009-2010 through 2010-2011, and projected revenue and expenses through 2014-2015. As of the end of fiscal year 2011-2012, the Board had incurred a deficit of over \$2 million. BFO projected that, without an increase to the biennial renewal fee, the Board would incur a deficit of \$2,958,537 by the end of fiscal year 2012-2013, a deficit of \$3,928,537.56 by the end of fiscal year 2013-2014, and a deficit of \$4,968,537 by the end of fiscal year 2014-2015, with no end in sight to the mounting deficits. Therefore, BFO recommended that the Board raise fees to meet or exceed projected expenditures, in compliance with section 16(d) of the act.

At the present fee level, the Board produces approximately \$ 6,150,000 in revenue over a 2-year period. Conversely, the Board is budgeted to spend \$ 3,900,000 in the current fiscal year and an estimated \$ 4,020,000 in fiscal year 2013-2014, or a deficit of over \$1,770,000 during the biennial cycle. The disparity in the amount of revenue capable of being produced over a 2-year period and the amount that is being expended requires the Board to now implement a 90 % fee increase in order to sustain the required level of operations and eliminate the projected deficits. As a result, the Board voted to increase the biennial renewal fees as set forth in this proposed rulemaking. BFO anticipates that the proposed fees will enable the Board to recoup the existing deficits by the end of fiscal year 2017-2018, avoid future deficits and place the Board back on solid financial ground.

(11) 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 standards applicable to the subject matter of the regulation.

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

It is difficult to compare fees across states because some states have entirely different regulatory schemes. For example, like Pennsylvania, New York, Ohio and Maryland have a separate Barber Board and a separate Cosmetology Board. In New Jersey and West Virginia, those professions are regulated by a single board. Some boards receive general fund revenues to support their operations. Pennsylvania does not.

In New Jersey, the biennial renewal fee is \$60 for individuals (compared to \$67 in this proposed rulemaking), \$130 for shop renewals (compared to \$114) and \$300 for school renewals (compared to \$285). In Ohio, the biennial renewal fee is \$250 for schools, \$60 for salons and \$45 for individuals. In Virginia, the biennial renewal fee is \$140 for cosmetologists, \$140 for nail technicians, \$150 for instructors, \$225 for facilities and \$255 for schools. In West Virginia, they have annual renewals, however the equivalent fee on a biennial basis would be \$70 for cosmetologists, nail technicians and estheticians; \$100 for instructors; \$80 for shops; and \$500 for schools. In Maryland, the biennial renewal fees are \$25 for cosmetologist, estheticians and nail technicians and \$50 for salons. In New York, the renewal fee for nail specialty, waxing, natural hair styling, esthetics or cosmetology is \$20 and \$30 for an appearance enhancement business license renewal.

In general, the Board does not believe the increased biennial renewal and application fees will discourage licensees from renewing their licenses or applicants from applying for licensure in Pennsylvania. Therefore, the Board does not believe the regulation will put the Commonwealth at a competitive disadvantage.

(13) 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 should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

Because the reconciliation of its budget is an administrative function for which public input is not required, the Board did not solicit input from or provide an exposure draft of this proposed rulemaking to interested parties. However, the Board received the various financial reports and discussed possible renewal fee increases in public session at meetings routinely attended by members of the regulated community and their professional associations.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

There are approximately 18,779 licensed cosmetology and limited practice salons and 167 licensed cosmetology schools operating in the Commonwealth of Pennsylvania that will be affected by the regulation. There are also approximately 87,966 licensed cosmetologists, 5,500 licensed estheticians, 14,145 licensed nail technicians, 14 licensed natural hair braiders, and 8,820 licensed cosmetology and limited practice teachers with active licenses who are expected to renew them in 2015 and beyond that will be affected by the regulation.

For the business entities listed above (beauty salons and cosmetology schools), small businesses are defined in Section 3 of the Regulatory Review Act, Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. Specifically, size standards are provided at 13 CFR § 121.201. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses listed above (NAICS Code 611511 – Cosmetology and Barber Schools; and 812112 – Beauty Salons), a small business is one with \$7.0 million or less in average annual receipts. The Board believes that many of the cosmetology schools and salons licensed by the Board are considered small businesses because they would fall under this threshold amount.

Small businesses would be affected by the increase in the biennial renewal fee for the business itself (\$54 increase for salons; \$135 increase for schools). Salons and schools would also be affected by the increase in the biennial renewal fees for cosmetologists, estheticians, nail technicians, teachers, etc. to the degree the business pays the licensure fees of its employees.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

There are approximately 18,779 licensed cosmetology and limited practice salons and 167 licensed cosmetology schools operating in the Commonwealth of Pennsylvania that will be required to comply with the regulation. There are also approximately 87,966 licensed cosmetologists, 5,500 licensed estheticians, 14,145 licensed nail technicians, 14 licensed natural hair braiders, and 8,820 licensed cosmetology and limited practice teachers with active licenses who are expected to renew them in 2015 and beyond that will be required to comply with the regulation.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

All licensees of the Board will be impacted by the increase in the biennial renewal fees. In addition, applicants for various licenses will incur greater costs associated with processing applications and conducting inspections. The Board believes that a majority of cosmetology and limited practice salons and privately owned and operated cosmetology schools in the Commonwealth qualify as "small businesses" pursuant to the federal SBA standards. Therefore, small businesses will be impacted by the increase in their biennial renewal fees; and will also be impacted to the degree that the salon or school pays the licensure fees for its employees. However, this increase is necessary to ensure the fiscal integrity of the board and to assure that the board's mandate to license individuals and inspect schools and shops in order to protect the health, safety and welfare of the public is carried out.

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

Section 16(d) of the Beauty Culture Law (Act) (63 P.S. § 522(d)) (act) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period.

The regulation benefits every citizen of the Commonwealth in that it will ensure the fiscal integrity of the Board and allow the Board to carry out its mission. The costs to licensees, which equates to \$32 per renewal (or \$16 per year) for cosmetologists, estheticians, nail technicians and natural hair braiders; \$50 per renewal (or \$25 per year) for cosmetology, esthetician and nail technology teachers, \$54 per renewal (or \$27 per year) for cosmetology, esthetician, nail technology and natural hair braiding salons; and \$135 per renewal (or \$67.50 per year) for cosmetology schools, is outweighed by the Board's duty to issue licenses, regulate the cosmetology profession and inspect salons and schools in the public interest.

(19) 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.

Costs to the regulated community related to the increased biennial renewal fees as set forth in item (18) is calculated as follows:

**18,779 salons x \$54 increase = \$1,014,066 167 schools x \$ 135 increase = \$22,545
107,625 cosmetologists, estheticians, nail technicians & hair braiders x \$32 increase = \$3,444,000
8,820 cosmetology & limited practice teachers x \$50 = \$441,000**

Total costs associated with increased biennial renewal fees = \$4,921,611

The increased costs to the regulated community for application fees will be \$20 for Cosmetology School applicants, \$45 for Salon applicants, \$30 for Change in Salon (inspection required), \$15 for Change in Salon (no inspection required), \$45 for Re-inspection of Salon (new business failure), and \$40 for applicants for licensure by reciprocity. Therefore, estimated annual costs associated with applications is as follows:

Cosmetology school applications – 2 applicants x \$20 increase = \$60

Initial salon applicants - 1,188 applicants x \$45 = \$53,460

Change in salon (inspection required) – 300 applicants x \$30 = \$9,000

Change in salon (no inspection required) – 200 applicants x \$15 = \$3,000

Re-inspection (new or relocated salon) – 10 applicants x \$45 = \$450

Licensure by reciprocity – 411 applicants x \$40 = \$16,400

TOTAL ANNUAL INCREASE IN APPLICATION FEES = \$82,370.

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

The regulation would not result in costs or savings to local government.

(21) Provide a specific estimate of the costs and/or savings to the **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 will not incur an increase in administrative costs by implementing the rulemaking. Indeed, the regulatory amendment will permit the Board to recoup the costs of its operations. There are no other costs or saving to state government associated with compliance with the proposed rulemaking.

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

This proposed rulemaking would not require any additional recordkeeping or other paperwork.

(23) 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 FY 12-13	FY +1 FY 13-14	FY +2 FY 14-15	FY +3 FY 15-16	FY +4 FY 16-17	FY +5 FY 17-18
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community	\$0	\$82,370	\$2,680,940	\$2,405,411	\$2,680,940	\$2,405,411
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$82,370	\$2,680,940	\$2,405,411	\$2,680,940	\$2,405,411
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 FY 2009-2010	FY -2 FY 2010-2011	FY -1 FY 2011-2012	Current FY FY-2012-2013
State Board of Cosmetology	\$3,853,384.45	\$3,941,630.49	\$3,400,000.00	\$3,900,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

(a) Assuming that the majority of salons and cosmetology schools qualify as “small businesses” as that term is defined by the Regulatory Review Act and the SBA, there could be as many as 18,946 small businesses subject to the regulation.

(b) There are no projected reporting, or recordkeeping costs required for compliance. There are no additional administrative costs required for compliance. (The administrative costs would be those associated with filling out the biennial renewal form or online renewal application and either writing a check or processing the payment of the fee. These costs would be the same regardless of the increase in the fee.) Also, some of these fees can be avoided by the small businesses by requiring employees to pay their own biennial renewal fees.

(c) The probable effect on impacted small businesses would be a \$54 increase in the biennial renewal fee for each salon and a \$135 increase for each school. It may also affect the small businesses to the degree they pay the licensure fees of their employees.

(d) The Board did not perceive any alternative methods of achieving the purpose of the proposed regulation because a lower increase would not eliminate the Board’s current deficits.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the 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.

(26) 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.

The Board carefully considered reports and recommendations from the Department's Bureau of Finance and Operations (BFO) in developing this proposed rulemaking. The Board had previously considered a \$75% increase to be effective with the 2014 renewals, but BFO demonstrated that such an increase would not eliminate the deficits if implemented at this time. Therefore, as recommended by BFO, the Board voted to increase the biennial renewal fees by 90% to be effective with the February 1, 2015 renewals. The Board concludes that this proposed rulemaking is the least burdensome acceptable alternative to allow the Board to comply with the statute and assure the ongoing fiscal integrity of the Board.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

- a) & b) All licenses renew biennially. The Board did not consider less stringent reporting requirements or deadlines for small businesses or for licensees that work for small businesses.**
- c) There are no compliance or reporting requirements that could be consolidated or simplified. The biennial renewal process is the same whether a particular salon or school is a small business or whether a particular licensee is employed by a small business or a large business.**
- d) The regulations do not contain design or operational standards that need to be altered for small businesses.**
- e) To exclude any licensees from the requirements contained in the regulation (an increased biennial renewal fee) based on the size of the business would not be consistent with public health, safety and welfare because it would prevent the Board from obtaining adequate revenue to meet projected expenditures and it would not be able to carry out its legislative mandate to issue licenses, regulate the cosmetology profession and inspect shops and schools in the public interest.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is based upon financial reports made by the Department of State's Bureau of Finance and Operations. This proposed rulemaking is not based upon any scientific data, studies, or references.

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

A. The date by which the agency must receive public comments: **Within 30 days of publication as proposed rulemaking.**

B. The date or dates on which public meetings or hearings will be held: **No public hearings are contemplated, however the Board meets in regular public meetings (generally the first Monday of each odd-numbered month), at which time its regulatory matters are considered. In 2013, the Cosmetology Board is scheduled to meet on the following dates: January 7, February 4*, March 18, April 1*, May 6, June 3*, July 1, August 5*, September 16, October 7*, November 4 and December 2*, 2013. (Dates marked with a * are tentative and will be held if necessary.)**

C. The expected date of promulgation of the proposed regulation as a final-form regulation: **Within 2 years of the close of public comments; but in no event later than October 31, 2014, because the Board begins accepting renewal applications three months before the end of the biennial renewal period which ends on January 31, 2015.**

D. The expected effective date of the final-form regulation: **The increased application fees will be effective upon publication of the final-form rulemaking; the increased biennial renewal fees will go into effect with the renewal cycle commencing in 2015.**

E. The date by which compliance with the final-form regulation will be required: **Upon publication of the final-form rulemaking.**

F. The date by which required permits, licenses or other approvals must be obtained: **N/A**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

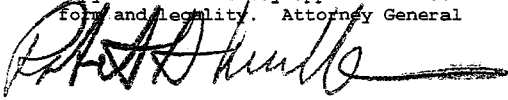
The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, at least 6 times a year. More information can be found on the Board's website (www.dos.state.pa.us/). Additionally, the Department of State, Bureau of Finance and Operations, makes annual financial reports to the Board.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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



BY: _____
(DEPUTY ATTORNEY GENERAL)

MAR 13 2013

DATE OF APPROVAL

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

State Board of Cosmetology
(AGENCY)

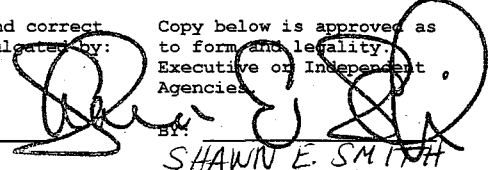
DOCUMENT/FISCAL NOTE NO. 16A-4515

DATE OF ADOPTION: _____

BY: MaryLou Enoches
MaryLou Enoches

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is approved as
to form and legality.
Executive of Independent
Agency



BY: SHAWN E. SMITH

FEB 21 2013

DATE OF APPROVAL

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

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

NOTICE OF PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF COSMETOLOGY
49 PA. CODE § 7.2
FEES - COSMETOLOGY

The State Board of Cosmetology (Board) proposes to amend § 7.2 (relating to fees) to read as set forth in Annex A. The proposed rulemaking would provide for an increase to the biennial license renewal fees for all licensees and would also increase certain application fees to cover the costs of processing those applications.

Effective Date

The amendments will be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin. The new application fees will be implemented immediately upon publication of the final-form rulemaking. It is anticipated that the new biennial renewal fees will be implemented with the license renewals that are due by January 31, 2015.

Statutory Authority

Section 16(d) of the Beauty Culture Law (Act) (63 P.S. § 522(d)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period.

Background and Need for Amendment

Under Section 16(d) of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board must increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the vast majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees.

In 2009, the Board had voted to increase biennial renewal fees by 75% and to increase various application fees to cover the costs associated with processing the applications. However, due to circumstances beyond the Board's control, the regulations to implement those increases were not promulgated since that time.

Subsequently, at the July 9, 2012, Board meeting, representatives of the Department's Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for fiscal years 2009-2010 through 2010-2011, and projected revenue and expenses through 2014-2015. As of the end of fiscal year 2011-2012, the Board had incurred a deficit of over \$2 million. BFO projected that, without an increase to the biennial renewal fee, the Board would incur a deficit of \$2,958,537 by the end of fiscal year 2012-2013, a deficit of \$3,928,537.56 by the end of fiscal year 2013-2014, and a deficit of \$4,968,537 by the end of fiscal year 2014-2015, with no end in sight to the mounting deficits. Therefore, BFO recommended that the Board raise fees to meet or exceed projected expenditures, in compliance with section 16(d) of the act.

At the present fee level, the Board produces approximately \$ 6,150,000 in revenue over a 2-year period. Conversely, the Board is budgeted to spend \$ 3,900,000 in the current fiscal year and an estimated \$ 4,020,000 in fiscal year 2013-2014, or a deficit of over \$1,770,000 during the biennial cycle. The disparity in the amount of revenue capable of being produced over a 2-year period and the amount that is being expended requires the Board to now implement a 90 % fee increase in order to sustain the required level of operations and eliminate the projected deficits. As a result, the Board voted to increase the biennial renewal fees as set forth in this proposed rulemaking. BFO anticipates that the proposed fees will enable the Board to recoup the existing deficits by the end of fiscal year 2017-2018, avoid future deficits and place the Board back on solid financial ground.

Description of Proposed Amendments

Based upon the above expense and revenue estimates provided to the Board, the Board proposes to amend § 7.2 (relating to fees) to increase the biennial renewal fees for all classes of licensees. The biennial renewal fee for cosmetologists, nail technicians, estheticians and natural hair braiders will increase from \$35 to \$67. The biennial renewal fee for cosmetology and limited practice teachers will increase from \$55 to \$105. The biennial renewal fee for cosmetology and limited practice salons will incur an increase in from \$60 to \$114. Finally, biennial renewal of cosmetology school licenses will increase from \$150 to \$285. Approximately half of the licenses renew as of February 1 of even-numbered years (nail technicians, nail technology teachers, half of all cosmetologists, cosmetology teachers and cosmetology schools), and half renew as of February 1 of odd-numbered years (estheticians, esthetics teachers, esthetician salons, nail technician salons, cosmetology salons, natural hair braiders, natural hair braiding teachers, natural hair braiding salons and half of all cosmetologists). The Board anticipates that the regulations needed to implement the proposed increases in biennial renewal fees will be in place in time to go into effect for the 2015 renewals.

In addition, as a result of the review of the application fees conducted by BFO, the Board proposes increases to the fees for the processing of applications for initial licensure of cosmetology and limited practice salons from the current level of \$55 to \$100. The proposed fee schedule would increase the fee for cosmetology schools from \$160 to \$180. Initial licensure of a salon or school requires an inspection by a Regulatory Enforcement Inspector, in addition to the time spent processing the application by Board staff. The existing fees are inadequate to cover the costs of processing the application and performing the inspection. In addition, the Board is proposing to increase the fees required to process a change in a salon license when an inspection is required from \$55 to \$85; and for re-inspection of a salon or school from \$40 to \$85. Again, the existing fees are inadequate to cover the costs involved in processing the applications and performing the required inspections. In addition, it has been determined that the fee for processing a change to a salon license when no inspection is required is also inadequate to cover the cost of processing the change application. Therefore, the Board is proposing an increase from \$15 to \$30. Finally, the Board is proposing to increase the fees for processing an application for licensure by reciprocity from \$20 to \$60. Initial licensure by reciprocity is significantly more involved than licensure by examination and requires more staff time to process.

Fiscal Impact

The proposed amendment will increase the biennial renewal fees for all licensee classifications. There are currently about 131,335 licensees expected to renew their licenses during the 2015 and 2016 renewal cycles. In addition, applicants for various licenses will incur greater costs associated with processing applications and conducting inspections. The proposed amendments should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new fees; however, the amendments will not create additional paperwork for the private sector.

Sunset Date

The act requires the Board to monitor its revenue and costs on a fiscal year and biennial basis. 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 March 25, 2013, 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 any comments, recommendations and objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Cynthia Montgomery, Regulatory Counsel, Department of State, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

Mary Lou Enoches
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

§ 7.2. Fees.

Fees charged by the Board are as follows:

* * * * *

Licensure of cosmetology salon or limited practice salon.....	[\$55]	<u>\$100</u>
Licensure of cosmetology school.....	[\$160]	<u>\$180</u>
Licensure by reciprocity.....	[\$20]	<u>\$60</u>

* * * * *

Biennial renewal of nail technician license.....	[\$35]	<u>\$67</u>
Biennial renewal of esthetician license.....	[\$35]	<u>\$67</u>
Biennial renewal of cosmetologist license.....	[\$35]	<u>\$67</u>
Biennial renewal of natural hair braider license.....	[\$35]	<u>\$67</u>
Biennial renewal of cosmetology teacher or limited practice teacher license.....	[\$55]	<u>\$105</u>
Biennial renewal of cosmetology salon or limited practice salon license.....	[\$60]	<u>\$114</u>
Biennial renewal of cosmetology school license.....	[\$150]	<u>\$285</u>

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Change in cosmetology salon or limited practice salon (inspection required).....	[\$55]	<u>85</u>
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Change in cosmetology salon or limited practice salon (no inspection required).....\$[15] 30

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Reinspection of cosmetology salon or limited practice salon or cosmetology school.....\$[40] 85

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

March 25, 2013

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Board of Cosmetology
16A-4515: FEES

Dear Chairman Lutkewitte:

Enclosed is a copy of a proposed rulemaking package of the State Board of Cosmetology pertaining to Fees.

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 cursive script that reads "Mary Lou Enoches".

Mary Lou Enoches, Chairperson
State Board of Cosmetology

MLE/JAR:rs

Enclosure

cc: Katie True, Commissioner
Bureau of Professional and Occupational Affairs
Rebecca Oyler, Director of Policy, Department of State
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Juan A. Ruiz, Counsel
State Board of Cosmetology
State Board of Cosmetology

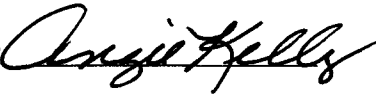
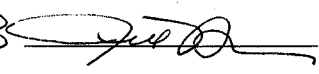

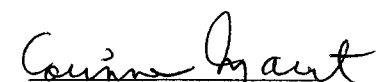
**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-4515
SUBJECT: FEES
AGENCY: DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF COSMETOLOGY

TYPE OF REGULATION

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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3/25/13		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIR <u>Julie Harhart</u>
3-25-13		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE MAJORITY CHAIR <u>Robt. M. Tomlinson</u>
3/25/13		INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only)
3/25/2013		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

March 14, 2013