



Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

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

(1) Agency

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

(2) Agency Number: 16A

Identification Number: 4211

IRRC Number: 3306

(3) PA Code Cite: 49 Pa. Code § 3.103

(4) Short Title: Fees

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

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

Proposed Regulation

Final 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 State Board of Barber Examiners ("Board") proposes to amend § 3.103 (relating to fees) to read as set forth in Annex A. The final rulemaking provides for graduated application fee increases for: barber; barber shop manager; barber teacher; barber shop; barber school; licensure of barber by reciprocity; change in barber shop—inspection required; change in barber shop—no inspection required; reinspection after first fail—new or change (shop or school), verification of license/permit/registration; and certification of student status or student training hours. The final rulemaking also provides for graduated biennial renewal fee increases for: barber, barber shop manager, barber teacher, barber shop and barber school.

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

Pursuant to section 14 of the Barbers' License Law (act), 63 P.S. § 564(b), all fees required pursuant to the act shall be fixed by the Board by regulation and shall be subject to the Regulatory Review Act, 71 P.S.

§§ 745.1-745.15. Section 14(b) of the act further provides that “[i]f the revenues raised by fees, fines and civil penalties imposed pursuant to [the] act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.” Section 15-A.4 (b) of the act, 63 P.S. § 566.4(b), states, “[t]he board shall have power to make such other rules and regulations... as shall be deemed necessary to carry out the provisions of this act.”

Regarding barber, barber shop manager, and barber teacher application fees, section 3 (a), (c), and (d) of the act, 63 P.S. § 553(a), (c), and (d), require applicants to submit an application in such a form as the Board prescribes and also states in pertinent part, “...[a]t the time of filing the application and accompanying notarized statements, the applicant shall pay to the department an examination fee to be determined by regulation...” Regarding barber by reciprocity application fees, section 4(a) of the act, 63 P.S. § 554(a), states, “[a] barber currently licensed in another state with substantially the same licensure requirements as Pennsylvania shall be granted a Pennsylvania barber license without examination upon payment of the fee.” Regarding barber shop application fees, section 13(b) of the act, 63 P.S. § 563(b), states, “[a] licensed barber over sixty-five years of age may operate a one chair barber shop located in a senior citizen center which is eligible for funding from the State Lottery Fund... Shops licensed under this subsection shall be subject to the same fees imposed pursuant to this act for the issuance and biennial renewal of a barber shop license.” Regarding barber school application fees, section 12(a) of the act, 63 P.S. § 562(a), states in pertinent part, “[b]oth the fee for registration of each barber school and the annual renewal fee shall be determined by regulation.” Under section 11 of the act, 63 P.S. § 561, “[t]he department shall keep a record of the names and addresses of the barber shops to which, and the names of all persons to whom, licenses are issued under this act. The department shall furnish copies of such records to the public upon request and may establish a reasonable fee for such copies which shall not exceed the cost of reproduction.” Regarding biennial renewal fees, section 8(a) of the act, 63 P.S. § 558(a), states, “[t]he license shall be renewed on or before the thirtieth day of April, 1962, for a period of two years and biennially thereafter, and holders of said licenses shall pay to the department a fee to be determined by regulation for renewal.”

The Commissioner is appointed by the Governor and has a number of powers and duties. Specifically, under 71 P.S. § 279.1(a)(7), the Commissioner has the power and duty, “[u]nless otherwise provided by law, to fix the fees to be charged by the several professional and occupational examining boards within the department.”

(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 question (8), the regulation is not mandated by any other federal or state law, 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.

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures. The general operating expenses of the Board are borne by the licensee population through revenue generated

by applications and the biennial renewal of licenses. The final rulemaking ensures the fiscal integrity of the Board and allows the Board to carry out its mission to protect the health, safety and welfare of the public.

The majority of the Board's costs are personnel-related, and much of those costs are not within the Board's control. Staff are generally employees of the Commonwealth, most of whom are civil service personnel, and many are union positions. For these employees, the Board is bound by the negotiated contract. Personnel costs associated with investigation and enforcement depend largely on the number of complaints received that need to be investigated, and the number of those matters that result in disciplinary action. The Board has no control over the number of complaints that are filed against licensees and unlicensed individuals, nor may they control which matters are, or are not, prosecuted.

The Board receives an annual report from the Department of State's Bureau of Finance and Operations (BFO) regarding the Board's income and expenses. (*See* Attachment "A"). Currently, the Board's revenue and expenses are as follows: during FYs 2018-2019, the Board had \$159,127.33 in revenue and incurred expenses of \$656,544.64 and ended with a deficit balance of (\$335,744). For FYs 2019-2020 through 2020-2021, the Board projects \$1,339,529.40 in revenue and projects incurring expenses of \$1,583,291.30. At the end of FY 2020-2021, BFO projects a deficit balance of (\$579,505.90). Thus, BFO's data demonstrates that the Board's revenue is not sufficient to meet or exceed its expenditures over a two-year period.

Five graduated biennial renewal fee increases will be implemented under the final rulemaking for: barber, barber shop manager, barber teacher, barber shop and barber school. Approximately 8,065 individuals who possess current licenses and registrations will be required to pay more for biennial renewals. While licensed individuals will be impacted economically, the graduated increases, as opposed to a flat fee increase, will ensure that fees charged coincide more closely with the projected expenses for each biennium.

As a part of the Board's final rulemaking, the Board reviewed the fees charged for licensure applications and determined that the current application fees do not accurately reflect the actual cost of processing applications. Accordingly, the Board adopted increases in application fees so that the application fees more accurately reflect the cost of processing applications. Increasing the application fees, however, does not produce sufficient revenue to meet or exceed the Board's projected expenditures. The final rulemaking will increase licensure application fees to reflect updated costs of processing applications. The following graduated application fee increases will be implemented under the final rulemaking: barber; barber shop manager; barber teacher; barber shop; barber school; licensure of barber by reciprocity; change in barber shop—inspection required; change in barber shop—no inspection required; reinspection after first fail—new or change (shop or school), verification of license/permit/registration; and certification of student status or student training hours.

Approximately 1,120 applicants will be impacted by this final regulation. While applicants will be impacted economically, the increases will be made on a graduated basis instead of as a flat fee increase in order to ensure that fees charged to applicants are reflective of costs for processing applications.

The new fee structure is projected to produce biennial revenues of \$1,668,000 in FYs 2021-2022 through 2022-2023, which will allow the Board to meet or exceed its projected expenditures of \$1,497,000 and reduce its \$579,505.90 deficit. The biennial revenues of \$1,952,000 in FYs 2023-2024 through 2024-2025 will allow the Board to meet or exceed its projected expenditures of \$1,542,000. The Board believes that the fees will be adequate to decrease the deficit and cover operating expenses through at least FY 2024-2025.

The fee increases for application and biennial renewal fees will enable the Board to continue to create a small surplus in funds. The final rulemaking will benefit every citizen of the Commonwealth in that it ensures the fiscal integrity of the Board so that it can carry out its mission. The costs to applicants and licensees are outweighed by the Board's duty to license and regulate the barbering profession in the public interest.

(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.

No, there are no federal licensure 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?

This regulation will not put Pennsylvania licensees at a competitive disadvantage with surrounding states in the Northeast Region (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont and West Virginia). Although under the regulation, Pennsylvania's barber and barber teacher biennial renewal fees will be higher than many of the surrounding states, Pennsylvania's lower than average initial application fees for barbers and barber teachers will allow Pennsylvania to compete with other states by making it less expensive to enter into the barbering profession, and consequently, start earning money. In addition, Pennsylvania's barber shop biennial renewal fees will be higher than many of the surrounding states, however, Pennsylvania's initial application fee for barber shops will be comparable to the average fees of surrounding states. Pennsylvania's barber school biennial renewal fees will be within the above average range of fees when compared to surrounding states, while Pennsylvania's initial application fees for barber schools will be in the below average range by comparison. It should be noted that there are differing regulatory schemes among the states. For example, Pennsylvania and Maryland have a Barber Board that is separate from its Cosmetology Board. In the majority of Northeast Regional states, however, the barbering and cosmetology professions are regulated by a single board. In addition, not all states have the same licensing categories. Some states do not license barber teachers (instructors), shops, and/or schools. Pennsylvania is the only state in the Northeast Region that has a barber shop manager license category.

Barbers –

The current application fee for barbers in Pennsylvania is \$10. Under the new fee structure, the Pennsylvania barber application fee would increase from \$10 to \$30 as of July 1, 2022. On July 1, 2024, the Pennsylvania barber application fee would increase from \$30 to \$33. In New Jersey, barbers currently pay an application fee of \$50, plus an initial licensure fee of \$90 during the first year of a renewal cycle (even year), or \$45 during the second year of a renewal cycle (odd year). In New York, the initial license fee for barber and barber by reciprocity is \$40. In Ohio, barbers pay a \$90 examination fee and a \$30 initial license fee. In West Virginia, barbers pay a \$35 initial license fee. In Delaware, the application fee for a barber, master barber, or barber by reciprocity is \$128. In Rhode Island, the application fee for barbers is \$25. In Maine, there is an annual licensing fee of \$20 for barber applicants. In Maryland, the initial licensure fee for barbers and master barbers is \$50. In New Hampshire, the application fee for initial barber licensure is \$30. In Massachusetts, the application fee for a master barber is \$66. In Connecticut, the application fee for barbers is \$100. In Vermont, the application fee for barbers is \$110.

The current biennial renewal fee for barbers in Pennsylvania is \$109. Under the new fee structure, the Pennsylvania barber biennial renewal fee would increase from \$109 to \$160 as of May 1, 2022 and from \$160 to \$184 as of May 1, 2024. Biennial renewal fees for barbers are \$90 in New Jersey, \$110 in Ohio, \$25 in Rhode Island, \$50 in Maryland, \$40 in New Hampshire, \$78 in Massachusetts, \$100 in Connecticut, and \$130 in Vermont. West Virginia has an annual license renewal fee for barbers of \$35. New York has a license renewal fee for barbers of \$40 every four years.

In summary, barber application fees and/or initial licensure fees in surrounding states range from a low of \$20 in Maine to a high of \$128 in Delaware. Pennsylvania's graduated fee increases to \$30 and \$33 for barber application fees, therefore, would place Pennsylvania on the low end of the range of application fees when compared to the surrounding states. In addition, barber renewal of licensure fees in surrounding states range from a low of \$40 every four years in New York to a high of \$130 every two years in Vermont. Pennsylvania's graduated increases to \$160 and \$184 for biennial renewal fees, therefore, would place Pennsylvania at the high end of the range of licensure renewal fees when compared to the surrounding states.

Barber Shop Manager –

The current application fee for barber shop manager in Pennsylvania is \$10. Under the new fee structure, the Pennsylvania barber shop manager application fee would increase from \$10 to \$30 as of July 1, 2022. On July 1, 2024, the Pennsylvania barber shop manager application fee would increase from \$30 to \$33.

The current biennial renewal fee for barber shop manager in Pennsylvania is \$161. Under the new fee structure, the Pennsylvania barber shop manager biennial renewal fee would increase from \$161 to \$215 as of May 1, 2022, and from \$215 to \$260 as of May 1, 2024.

Under Section 12(a)(1) of the Barbers' License Law, a licensed barber shop must be under the immediate supervision of a manager barber (barber shop manager) or a licensee designated in charge of the shop. No other state that surrounds Pennsylvania has a barber shop manager licensure category. Consequently, neither the application fees nor the biennial renewal fees for barber shop manager can be compared with those of the surrounding states.

Barber Teacher -

The current application fee for barber teacher in Pennsylvania is \$10. Under the new fee structure, the Pennsylvania barber teacher application fee would increase from \$10 to \$30 as of July 1, 2022. On July 1, 2024, the Pennsylvania barber teacher application fee would increase from \$30 to \$33. In New Jersey, barber teachers currently pay an application fee of \$50, plus an initial licensure fee of \$90 during the first year of a renewal cycle (even year), or \$45 during the second year of a renewal cycle (odd year). In Ohio, barber teachers pay a \$185 initial license and examination fee. In West Virginia, barber instructors pay a \$50 initial license fee. In Delaware, barber instructors pay a \$205 application fee. In Rhode Island, barber instructors pay a \$25 application fee. In Maine, barber instructors pay a \$20 annual licensing fee. In New Hampshire, barber instructors pay an initial licensure fee of \$30. In Massachusetts, barber instructors pay a \$170 application fee.

The current biennial renewal fee for barber teacher in Pennsylvania is \$174. Under the new fee structure, the Pennsylvania barber teacher biennial renewal fee would increase from \$174 to \$225 as of May 1, 2022, and from \$225 to \$270 as of May 1, 2024. Biennial renewal fees for barber teachers are \$90 in New Jersey, \$150 in Ohio, \$25 in Rhode Island, \$55 in New Hampshire, \$84 in Massachusetts. West Virginia has an annual license renewal fee for barber teachers of \$50.

In summary, barber teacher application fees and/or initial licensure fees in surrounding states range from a low of \$20 in Maine to a high of \$205 in Delaware. Pennsylvania's graduated increases to \$30 and \$33 for barber teacher application fees, therefore, would place Pennsylvania on the low end of the range of application fees when compared to the surrounding states. In addition, barber teacher license renewal fees in surrounding states range from a low of \$25 every two years in Rhode Island to a high of \$150 every two years in Ohio. Pennsylvania's graduated increases to \$225 and \$270 for biennial renewal fees, therefore, would place Pennsylvania at the high end of the range of licensure renewal fees when compared to the surrounding states.

Barber Shop -

The current application fee for a barber shop in Pennsylvania is \$110. Under the new fee structure, the Pennsylvania barber shop application fee would increase from \$110 to \$145 as of July 1, 2022. On July 1, 2024, the Pennsylvania barber shop application fee would increase from \$145 to \$160. In New Jersey, the barber shop application fee is \$350 during the first year of a renewal cycle (even year), or \$250 during the second year of a renewal cycle (odd year). In New York, the initial license fee for a barber shop owner is \$60. In Ohio, the initial license fee for a barber shop is \$110. In West Virginia, a barber shop has a \$40 initial license fee and a \$50 inspection fee. In Delaware, the application fee for a barber shop is \$128. In Rhode Island, the application fee for a hair design shop is \$170. In Maine, there is an annual licensing fee of \$20 for establishments other than schools, which includes barber shops. In Maryland, the initial licensure fee for barber shop owners is \$200. In New Hampshire, the application fee for initial shop licensure is \$60. In Massachusetts, the application fee for barber shops is \$130. In Vermont, the application fee for a barber shop is \$330.

The current biennial renewal fee for barber shops in Pennsylvania is \$187. Under the new fee structure, the Pennsylvania barber shop biennial renewal fee would increase from \$187 to \$235 as of May 1, 2022, and from \$235 to \$287 as of May 1, 2024. Biennial renewal fees for barber shops are \$200 in New Jersey, \$75 in Ohio, \$170 in Rhode Island, \$100 in New Hampshire, \$78 in Massachusetts, and \$25 in Vermont. West Virginia has an annual license renewal fee of \$40 for barber shops. Maine has an annual license renewal fee of \$20 for barber shops. Maryland has a biennial license renewal fee of \$50 for shop owners. New York has a license renewal fee of \$60 for shop owners every four years.

In summary, barber shop application fees and/or initial licensure fees in surrounding states range from a low of \$20 in Maine to a high of \$350 in New Jersey. Pennsylvania's graduated increases to \$145 and \$160 for barber shop application fees, therefore, would place Pennsylvania near the middle range of barber shop application fees when compared to the surrounding states. In addition, barber shop license renewal fees in surrounding states range from a low of \$25 every two years in Vermont to a high of \$200 every two years in New Jersey. Pennsylvania's graduated increases to \$235 and \$287 for biennial renewal fees, therefore, would place Pennsylvania at the high end of the range of barber shop license renewal fees when compared to the surrounding states.

Barber School –

The current application fee for a barber school in Pennsylvania is \$140. Under the new fee structure, the Pennsylvania barber school application fee would increase from \$140 to \$170 as of July 1, 2022. On July 1, 2024, the Pennsylvania barber school application fee would increase from \$170 to \$185. In New Jersey, the barber school application fee is \$250, plus an initial licensure fee of \$300 during the first year of a renewal cycle (even year), or \$150 during the second year of a renewal cycle (odd year). In Ohio, the initial license fee for a barber school is \$1,000, plus a \$750 inspection fee. In West Virginia, an initial barber school license has a \$50 inspection fee. In Delaware, the application fee for a barber school is \$128. In Maine, there is an initial licensing fee of \$500 for a school. In New Hampshire, the application fee for

initial school licensure is \$150. In Massachusetts, the application fee for a barber school is \$450. In Vermont, the application fee for a barber school is \$330. The current biennial renewal fee for a barber school in Pennsylvania is \$291. Under the new fee structure, the Pennsylvania barber school biennial renewal fee would increase from \$291 to \$340 as of May 1, 2022, and from \$340 to \$391 as of May 1, 2024. Biennial renewal fees for barber schools are \$300 in New Jersey, \$1,000 in Ohio, \$150 in New Hampshire, and \$330 in Vermont. Maine has an annual license renewal fee of \$500 for barber schools. Massachusetts has an annual license renewal fee of \$225 for barber schools.

In summary, barber school application fees and/or other fees in surrounding states range from a low of \$50 for initial inspection in West Virginia to a high of \$1,750 for initial inspection and licensure in Ohio. Pennsylvania's graduated increases to \$170 and \$185 for barber school application fees, therefore, would place Pennsylvania in the below average range of barber school application fees when compared to the surrounding states. In addition, barber school license renewal fees in surrounding states range from a low of \$150 every two years in New Hampshire to a high of \$1,000 every two years in Ohio. Pennsylvania's graduated increases to \$340 and \$391 for biennial renewal fees, therefore, would place Pennsylvania in the above average range of barber school license renewal fees when compared to the surrounding states.

Licensure of Barber by Reciprocity

The current application fee for licensure of barber by reciprocity in Pennsylvania is \$55. Under the new fee structure, the Pennsylvania barber licensure by reciprocity application fee would increase from \$55 to \$60 as of July 1, 2022. On July 1, 2024, the Pennsylvania barber licensure by reciprocity application fee would increase from \$60 to \$65. The licensure by reciprocity or endorsement fee is \$100 in New Jersey, \$40 in New York, \$128 in Delaware, \$225 in Massachusetts, \$100 in Connecticut, \$100 in West Virginia, \$25 in Rhode Island, \$50 in Vermont, \$300 in Ohio, \$41 in Maine, and \$100 in New Hampshire.

In summary, licensure of barber by reciprocity application fees in surrounding states range from a low of \$25 in Rhode Island to a high of \$300 in Ohio. Pennsylvania's graduated increases to \$55 and \$60 for barber application fees, therefore, would place Pennsylvania in the below average range of application fees when compared to the surrounding states.

Change in Barber Shop—Inspection Required

The current application fee for "change in barber shop—inspection required" in Pennsylvania is \$90. Under the new fee structure, the Pennsylvania "change in barber shop—inspection required" application fee would increase from \$90 to \$115 as of July 1, 2022. On July 1, 2024, the Pennsylvania "change in barber shop—inspection required" application fee would increase from \$115 to \$125. Surrounding states do not have this type of fee schedule for this type of application. Consequently, the application fees for "change in barber shop—inspection required" cannot be compared with those of the surrounding states.

Change in Barber Shop—No Inspection Required

The current application fee for "change in barber shop—no inspection required" in Pennsylvania is \$40. Under the new fee structure, the Pennsylvania "change in barber shop—no inspection required" application fee would increase from \$40 to \$45 as of July 1, 2022. On July 1, 2024, the Pennsylvania "change in barber shop—no inspection required" application fee would increase from \$45 to \$50. Two of the surrounding states have applications for a business name change, which is a type of change that would not require an inspection. The application fee for business name change is \$27 in Massachusetts and \$50 in New Jersey. Pennsylvania's graduated increases to \$45 and \$50 for "change in barber shop—no inspection required" application fees, therefore, would be comparable to those of the neighboring State of New Jersey.

Reinspection After First Fail—New or Change (Shop or School)

The current application fee for “reinspection after first fail” in Pennsylvania is \$90. Under the new fee structure, the Pennsylvania “reinspection after first fail” application fee would be adjusted to decrease from \$90 to \$75 as of July 1, 2022. On July 1, 2024, the Pennsylvania “reinspection after first fail” application fee would increase from \$75 to \$82. Surrounding states do not have this type of fee schedule for this type of application. Consequently, the application fees for “reinspection after first fail” cannot be compared with those of the surrounding states.

Verify License/Permit/Registration

The current application fee for “verify license/permit/registration” in Pennsylvania is \$15. Under the new fee structure, the Pennsylvania “verify license/permit/registration” application fee would increase from \$15 to \$20 as of July 1, 2022. On July 1, 2024, the “verify license/permit/registration” application fee would increase from \$20 to \$22. The verification or certification of license/permit/registration application fee is \$25 in New Jersey, \$15 in Massachusetts, \$25 in Maryland, \$35 in West Virginia, \$50 in Rhode Island, \$50 in Vermont, \$40 in Ohio, \$35 in Delaware, \$20 in New Hampshire, and \$10 in New York.

In summary, “verify license/permit/registration” application fees in surrounding states range from a low of \$10 in New York to a high of \$50 in Rhode Island and Vermont. Pennsylvania’s graduated increases to \$20 and \$22 for “verify license/permit/registration” application fees, therefore, would place Pennsylvania in the below average range of application fees when compared to the surrounding states.

Certification of student status or student training hours

The current application fee for “certification of student status or student training hours” in Pennsylvania is \$30. Under the new fee structure, the Pennsylvania “certification of student status or student training hours” application fee would increase from \$30 to \$35 as of July 1, 2022. On July 1, 2024, the Pennsylvania “certification of student status or student training hours” application fee would increase from \$35 to \$40. The fee for certification of student status or student training hours is \$40 in Ohio and \$45 in Delaware. Pennsylvania’s graduated increases to \$35 and \$40 for “certification of student status or student training hours” application fees, therefore, would be similar to those of Ohio and Delaware.

As stated earlier, although many of Pennsylvania’s biennial renewal application fees will be higher than average when compared to the surrounding states, it will not impair Pennsylvania’s ability to compete. Barbering is a service profession which depends on the availability of large pools of potential clients in order to survive and thrive. Because Pennsylvania is highly populated in comparison with the surrounding states, it provides barbers with a greater pool of potential clientele and more opportunity to earn income. According to the 2020 U.S. Census, Pennsylvania is the 5th largest state in the United States of America. Of the twelve states that surround Pennsylvania, only New York ranks higher in population. The ranking of the twelve surrounding states by population is as follows: Connecticut, 29th; Delaware, 45th; Maine, 42nd; Maryland, 18th; Massachusetts, 15th; New Hampshire, 41st; New Jersey, 11th; New York, 4th; Ohio, 7th; Rhode Island, 43rd; Vermont, 49th; and West Virginia, 39th. Pennsylvania’s initial application fees are generally lower than average and provide an incentive for potential licensees to come to Pennsylvania to obtain a license and start earning an income which can be used to support themselves and their families and provides a means for paying the biennial renewal fees.

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

No.

(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.)

At its June 29, 2020 public meeting, the Board approved the proposed annex and voted to release it as an exposure draft. On July 28, 2020, the Board released an exposure draft of the proposed annex reflecting fee increases. The exposure draft was released to solicit written public comment from stakeholders, interested parties and representatives of the licensed professions. The comment period was open from July 28, 2020, through August 30, 2020. No responses were received from the public. The Board also discussed the proposed rulemaking on February 22, 2021, and voted to approve the proposed rulemaking on April 19, 2021, during the Board’s regularly scheduled meetings. Board meetings are routinely attended by representatives of the regulated community. This rulemaking was published as proposed in the *Pennsylvania Bulletin* on June 19, 2021 (51 Pa. B. 3342). A public comment period of 30 days was provided, and the Board did not receive any public comments.

At its _____, 2021 public meeting, the Board considered IRRC’s comments regarding the proposed rulemaking. After considering the comments, the Board voted on _____, 2021 to approve the final rulemaking.

(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?

On an annual basis, approximately 1,120 applicants will be affected by the following increased application fees: 434 barber applicants; 100 barber shop manager applicants; 14 barber teacher applicants; 235 barber shop applicants; 165 barber by reciprocity applicants; 5 barber school applicants; 10 applicants for a change in barber shop—inspection required; 40 applicants for a change in barber shop—no inspection required; 5 reinspection after first fail applicants; 100 verification of license/permit/registration applicants; and 12 applicants for certification of student status or student training hours.

A total of approximately 8,065 licensees will be affected by the biennial renewal fee increases, comprising of approximately 3,188 barbers, 2,462 barber shop managers, 275 barber teachers, 2,098 barber shops and 42 barber schools.

According to the Small Business Administration (SBA), there are approximately 1,041,905 businesses in Pennsylvania, of which 1,037,737 are small businesses. Of the 1,037,737 small businesses, 225,847 are small employers (those with fewer than 500 employees) and the remaining 811,890 are non-employers. Thus, the vast majority of businesses in Pennsylvania are considered small businesses.

Small businesses are defined in Section 3 of the Regulatory Review Act, 71 P.S. § 745.3 which states that a small business is defined by the SBA’s Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS).

According to the Pennsylvania Department of Labor and Industry, in 2019 (the most recent year for which data is available) barbers who provide services such as cutting, trimming, shampooing, styling hair,

trimming beards and giving shaves held approximately 1,210 jobs in 2019. The largest employers of barbers are barber shops. Other barbers work in personal care services in state government (excluding schools and hospitals), psychiatric and substance abuse hospitals and nursing care facilities (skilled nursing facilities).

In applying the NAICS standards to the types of businesses where barbers, barber shop managers, and barber teachers may work, barber shops (NAICS code 812111) are considered small businesses if they have \$8.0 million or less in average annual receipts. Barbers, barber shop managers, and barber teachers may also provide services at nursing care facilities (skilled nursing facilities) and psychiatric and substance abuse hospitals. Nursing care facilities (NAICS code 623110) are considered small businesses if they have \$30 million or less in average annual receipts. Psychiatric and substance abuse hospitals (NAICS code 62210) are considered small businesses if they have \$41.5 million or less in average annual receipts. Barber teachers may work at barber schools. Barber schools (NAICS code 611511) are considered small businesses if they have 8.0 million or less in average annual receipts. The Board does not collect data relating to business size but believes that the majority of barbers, barber shop managers, and barber teachers in the Commonwealth work in “small businesses” as the term is defined by the SBA and the Regulatory Review Act. The Board, likewise, does not collect information on the size of the businesses where its licensees are employed. However, for purposes of determining the economic impact on small businesses, the Board must assume that a large number of its barber, barber shop manager, barber teacher, barber shop, and barber school licensees either are, or work for, small businesses as that term is defined by the SBA and Pennsylvania’s Regulatory Review Act.

The regulation should not have an impact on the small businesses where barber, barber shop manager, and barber teacher licensees work as there are no direct costs that would be passed on to the licensee’s employer, unless the employer voluntarily assumes those costs. It would, therefore, be up to the business to determine the benefit of paying employee licensing fees. Additionally, while the board does license barber shops and barber schools, which would likely be classified as small businesses, the Board does not believe the increased fees for applications and biennial renewals will have a significant impact on these licensees. There has been no fee increase since 2014, thus the increase in application and biennial renewal fees aligns with the natural flow of economic inflation that any business would expect over a seven-year period. Also, the fee increases are graduated over time, allowing such licensees to make adjustments, if needed, such as increasing the cost of services.

(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.

The amendments will increase the application and biennial renewal fees for applicants as well as licensees under the Board’s purview. Specifically, those affected are:

APPLICANTS - Approximately 1,120 applicants will be impacted annually by the increased application fees, including approximately: 434 barber applicants; 100 barber shop manager applicants; 14 barber teacher applicants; 235 barber shop applicants; 5 barber school applicants; 10 applicants for a change in barber shop—inspection required; 165 barber by reciprocity applicants; 40 applicants for a change in barber shop—no inspection required; 5 reinspection after first fail applicants; 100 verification of license/permit/registration applicants; and 12 applicants for certification of student status or student training hours.

LICENSEES (Biennial Renewal) - There are approximately 8,065 individuals who will be required to pay more to renew their licenses, including: 3,188 barbers, 2,462 barber shop managers, 275 barber teachers, 2,098 barber shops and 42 barber schools.

The fees may be paid by applicants, licensees, permit holders, registrants or employers, if employers choose to pay these fees. Many barber shops and barber schools meet the definition of “small business.” Since barber shops and barber schools are licensees, such small businesses will be impacted as they will have to pay the increased fees for applications and biennial license renewal. The regulation should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

The rulemaking will require the Board to revise its online and paper applications to reflect the new fees, which is a nominal cost. The revisions, however, will not create additional paperwork for the regulated community.

(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.

The Board proposes to amend § 3.103 to update its fee schedules. The amendments will increase the application and biennial renewal fees for applicants and licensees of the Board. Specifically, those affected are as follows:

APPLICANTS

Approximately 1,120 applicants will be impacted annually by the graduated application fee increase.

434 Barbers

The Board receives approximately 434 barber applications per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$10 to \$30) will generate an additional \$8,680 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$8,680 in application fees.

FY 24-25: The fee increase (\$30 to \$33) will generate an additional \$1,302 in application fees.

100 Barber Shop Managers

The Board receives approximately 100 barber shop manager applications per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$10 to \$30) will generate an additional \$2,000 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$2,000 in application fees.

FY 24-25: The fee increase (\$30 to \$33) will generate an additional \$300 in application fees.

14 Barber Teachers

The Board receives approximately 14 barber teacher applications per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$10 to \$30) will generate an additional \$280 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$280 in application fees.

FY 24-25: The fee increase (\$30 to \$33) will generate an additional \$42 in application fees.

235 Barber Shops

The Board receives approximately 235 barber shop applications per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$110 to \$145) will generate an additional \$8,225 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$8,225 in application fees.

FY 24-25: The fee increase (\$145 to \$160) will generate an additional \$3,525 in application fees.

5 Barber Schools

The Board receives approximately 5 barber school applications per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$140 to \$170) will generate an additional \$150 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$150 in application fees.

FY 24-25: The fee increase (\$170 to \$185) will generate an additional \$75 in application fees.

165 Barbers by reciprocity

The Board receives approximately 165 licensure of barber by reciprocity applications per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$55 to \$60) will generate an additional \$825 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$825 in application fees.

FY 24-25: The fee increase (\$60 to \$65) will generate an additional \$825 in application fees.

10 Change in Barber Shop--inspection required

The Board receives approximately 10 applications for Change in Barber Shop--inspection required, per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$90 to \$115) will generate an additional \$250 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$250 in application fees.

FY 24-25: The fee increase (\$115 to \$125) will generate an additional \$100 in application fees.

40 Change in Barber Shop--no inspection required

The Board receives approximately 40 applications for Change in Barber Shop--no inspection required, per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$40 to \$45) will generate an additional \$200 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$200 in application fees.

FY 24-25: The fee increase (\$45 to \$50) will generate an additional \$200 in application fees.

5 Reinspection after first fail—new or change (shop or school)

The Board receives approximately 5 reinspection after first fail (barber shop or school) applications per year. An adjustment of the fees for this category of applications will result in the following revenue changes:

FY 22-23: The fee decrease (\$90 to \$75) will generate a decrease of \$75 in application fees.

FY 23-24: The fee decrease will continue to generate a decrease of \$75 in application fees.

FY 24-25: The fee increase (\$75 to \$82) will generate an increase of \$35 in application fees.

100 Verification of license/permit/registration

The Board receives approximately 100 verification of license/permit/registration applications per year. The graduated application fee increases will generate additional revenue as follows:

FY 22-23: The fee increase (\$15 to \$20) will generate an additional \$500 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$500 in application fees.

FY 24-25: The fee increase (\$20 to \$22) will generate an additional \$200 in application fees.

12 Certification of student status or student training hours

The Board receives approximately 12 certification of student status or student training hours applications per year. The graduated application fee increases will generate revenue as follows:

FY 22-23: The fee increase (\$30 to \$35) will generate an additional \$60 in application fees.

FY 23-24: The fee increase will continue to generate an additional \$60 in application fees.

FY 24-25: The fee increase (\$35 to \$40) will generate an additional \$60 in application fees.

Total Economic Impact to Applicants

Based upon the above application fee increases, the total economic impact per fiscal year is as follows:

FY 22-23: \$21,095

FY 23-24: \$21,095

FY 24-25: \$ 6,664

Total: \$48,854

BIENNIAL RENEWAL FEES

Approximately 8,065 licensees will be impacted by the graduated biennial fee structure.

3,188 Barbers

There are approximately 3,188 barbers who are subject to the current biennial renewal fee of \$109; these licensees will be impacted by the biennial renewal fee increases. Using past history as a guide, BFO estimates that around 432 barbers will stop renewing their licenses in the May of 2022 renewal, resulting in 2,756 barbers. The graduated biennial renewal fee increases will generate additional revenue as follows:

FY 21-22 and FY 22-23: The fee increase (\$109 to \$160) will generate an additional \$140,556 in revenue.

FY 23-24 and FY 24 - 25: The fee increase (\$160 to \$184) will generate an additional \$66,144 in revenue.

2,462 Barber Shop Managers

There are approximately 2,462 barber managers who are subject to the current biennial renewal fee of \$161; these licensees will be impacted by the biennial renewal fee increases. Using past history as a guide, BFO estimates that around 363 barber shop managers will stop renewing their licenses in the May of 2022

renewal, resulting in 2,099 barber shop managers. The graduated biennial renewal fee increases will generate additional revenue as follows:

FY 21-22 and FY 22-23: The fee increase (\$161 to \$215) will generate an additional \$113,346 in revenue.

FY 23-24 and FY 24-25: The fee increase (\$215 to \$260) will generate an additional \$94,455 in revenue.

275 Barber Teachers

There are approximately 275 barber teachers who are subject to the current biennial renewal fee of \$174; these licensees will be impacted by the biennial renewal fee increases. Using past history as a guide, BFO estimates that around 19 barber teachers will stop renewing their licenses in the May of 2022 renewal, resulting in 256 barber teachers. The graduated biennial renewal fee increases will generate additional revenue as follows:

FY 21-22 and FY 22-23: The fee increase (\$174 to \$225) will generate an additional \$13,056 in revenue.

FY 23-24 and FY 24-25: The fee increase (\$225 to \$270) will generate an additional \$11,520 in revenue.

2,098 Barber Shops

There are approximately 2,098 barber shops that are subject to the current biennial renewal fee of \$187; these licensees will be impacted by the biennial renewal fee increases. Using past history as a guide, BFO estimates that around 245 barber shops will stop renewing their licenses in the May of 2022 renewal, resulting in 1,853 barber shops. The graduated biennial renewal fee increases will generate additional revenue as follows:

FY 21-22 and FY 22-23: The fee increase (\$187 to \$235) will generate an additional \$88,944 in revenue.

FY 23-24 and FY 24-25: The fee increase (\$235 to \$287) will generate an additional \$96,356 in revenue.

42 Barber Schools

There are approximately 42 barber schools that are subject to the current biennial renewal fee of \$291; these licensees will be impacted by the biennial renewal fee increases. Using past history as a guide, BFO does not anticipate a decrease in the number of renewals in May of 2022. The graduated biennial renewal fee increases will generate additional revenue as follows:

FY 21-22 and FY 22-23: The fee increase (\$291 to \$340) will generate an additional \$2,058 in revenue.

FY 23-24 and FY 24-25: The fee increase (\$340 to \$391) will generate an additional \$2,142 in revenue.

Total Economic Impact to Licensees

Based upon the above biennial renewal fee increases, the economic impact is as follows:

FY 21-22 and FY 22-23: \$ 357,960

FY 23-24* and FY 24-25*: \$ 270,617

Total: \$ 628,577

** The amount in this fiscal year includes the additional costs incurred for this biennium only; this figure does not include the costs incurred as a result of the prior fiscal year increases in FY 21-22 or FY 22-23.*

The above application and renewal fees may be paid by applicants, licensees, registrants or employers, if employers choose to pay these fees on behalf of their employees. The Board does not expect this rulemaking to have any other financial, economic or social impact on individuals, small businesses, business or labor communities, or other public or private organizations.

This increase is necessary to ensure the fiscal integrity of the Board and to ensure that the Board's mandate to protect the health, safety and welfare of the public is carried out. The new fee structure for application fees is beneficial for licensees generally as the costs associated with each application will be paid by the applicant rather than distributed among the Board's licensees. Additionally, the Board's graduated fee approach is beneficial because the application fee increases are reflective of actual costs during each biennium and biennial renewal fees coincide more closely with the projected expenses for each biennium.

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

The Board is a statutorily-created board with powers and duties as set forth in the act, including the power to: determine qualifications and fitness of applicants; adopt and revise regulations; refuse, revoke, suspend or otherwise limit licensees; establish fees for the operation of the board; and conduct hearings. The Board's expenses include: Bureau administration, Commissioner's and Revenue office services, Departmental services, legal office services, hearing expenses, enforcement and investigation costs, Professional Compliance Office (PCO) costs, and board member expenses. Under Section 14 of the act, if the revenues raised by fees, fines and civil penalties imposed under this act are insufficient to meet expenditures over a two-year period, the Board must increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

The final rulemaking would benefit every citizen of the Commonwealth in that it would ensure the fiscal integrity of the Board, allowing the Board to carry out its mission to protect the health, safety and welfare of the public. The costs to applicants and licensees are outweighed by the Board's duty to license and regulate the barbering profession. Additionally, application fees will more accurately address the actual cost of resources devoted to processing applications.

The regulatory amendment is mandated by Section 14(b) of the act, 63 P.S. § 564(b) and is necessary to ensure the fiscal integrity of the Board so that it may continue to carry out its mission.

(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.

As reflected in the Board's response to Question 17, the regulated community will incur additional costs as a result of the graduated application and biennial renewal fee increases. By adding the costs for the graduated application fees with biennial renewal fees, the Board estimates that the cost to licensees and applicants is as follows: FY 2021-2022 and FY 2022-2023 results in a cost of \$379,055; and FY 2023-2024 and FY 2024-2025 results in a cost of \$298,376. The Board does not anticipate additional

administrative, legal, accounting or consulting costs to the Board, applicants or licensees by implementing the final rulemaking. The regulatory amendment will permit the Board to continue to fund the costs of its operations.

(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.

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

(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 incur nominal costs to revise its print and online application forms and online renewal platform to indicate the increased fees. Paper documents will be revised by Board administrative staff, who will change the fee amounts on an electronic copy of the paper document; this process will take about 15 minutes of staff time to complete the revisions per renewal year to revise the documents as well as fifteen minutes for the BPOA Business Licensing Division Chief, BPOA Deputy Commissioner and Board Counsel to each review and sign-off on the revisions. Online applications will be revised in PALS by Board administrative staff; this process will take about 1 hour of staff time to complete the revisions per renewal year as well as fifteen minutes for the BPOA Business Licensing Division Chief, BPOA Deputy Commissioner and Board Counsel to each review and sign-off on the revisions. The total estimated cost to revise paper and online documents is \$254; \$127 in FY 22-23 and \$127 in FY 24-25. The Board would incur no other increase in administrative costs by implementing the final rulemaking. There are no other costs or savings to state government associated with implementation of the final 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 final rulemaking will not require any additional record keeping nor will there be any legal, accounting or consulting procedures required for implementation of the final rulemaking. The new fees will require no additional paperwork, as these fees are being imposed to cover the Board's costs associated with services that are already being provided and paperwork that is already required.

(22a) Are forms required for implementation of the regulation?

Yes, the Board will have to revise its print and online application forms and online renewal platform to indicate the increased fees.

(22b) If forms are required for implementation of the regulation, attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported.

In October of 2016, the Bureau launched the Pennsylvania Licensing System (PALS), which provides for an online application and biennial renewal system. Most of the Board’s applications and biennial renewals are in PALS. Applicants and licensees must apply for initial licensure and renewal through PALS. Online PALS applications will have to be modified to reflect the amendments in this final regulation. The Board will only need to revise existing online applications to reflect the increased fees for initial applications and biennial renewal applications, as reflected in the final annex. As reflected in Attachment “B”, the only remaining hard copy forms that may be affected by this final rulemaking are “change in barber shop” applications; “licensure of barber school” applications; “certification of student status or student training hours” applications; “verify license/permit/registration” applications; and biennial renewal applications which are sent to incarcerated barber, barber shop manager, and barber teacher candidates. There is a reference to “reinspection after first fail- new or change (shop or school)” in the “change in barber shop” and “licensure of barber school” applications. In the Owner’s Oath section of both applications, it states that the applicant will be responsible for all applicable reinspection fees if the Bureau inspector determines after inspection that the application questions have not been answered correctly or the shop does not meet all the requirements for licensure. The reinspection fees are not on the “change in barber shop” and “licensure of barber school” applications, as the reinspection fee process for shops and schools is performed electronically through PALS. The Bureau of Enforcement and Inspection (BEI) uploads a Failed Inspection Report into PALS. The Department of Revenue adds the reinspection fee into PALS for payment by the applicant. Board staff send an email to the applicant advising them to correct the deficiencies identified in the Failed Inspection Report and to access PALS to pay the reinspection fee. Board staff confirm payment of the reinspection fee and review the applicant’s responses to the Failed Inspection Report. If the information is satisfactory, Board staff will email BEI to have a bureau inspector reinspect the barber shop or school. Regarding all the other initial applications, because the Board no longer uses paper applications, the Board is providing online “checklists” that correlate with each application; these checklists can also be accessed online through <https://www.pals.pa.gov/#>. For biennial renewals, the Board has attached copies of the barber, barber shop manager, and barber teacher biennial renewal applications as well as the online content posted to the Board’s website regarding biennial renewal fees for barber, barber shop manager, barber teacher, barber shop, and barber school.

(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 Year (21-22)	FY +1 Year (22-23)	FY +2 Year (23-24)	FY +3 Year (24-25)	FY +4 Year (25-26)	FY +5 Year (26-27)
SAVINGS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	N/A	\$0	\$0	\$0	\$0	\$0
Local Government						
State Government						
Total Savings	N/A	\$0	\$0	\$0	\$0	\$0
COSTS:	\$0	\$0	\$0	\$0	\$0	\$0

Regulated Community	\$178,980	\$200,075	\$156,403.50	\$141,972.50	\$141,972.50	\$141,972.50
Local Government						
State Government		\$127		\$127		
Total Costs	\$178,980	\$200,202	\$156,403.50	\$142,099.50	\$141,972.50	\$141,972.50
REVENUE LOSSES:						
Regulated Community	\$0					
Local Government						
State Government						
Total Revenue Losses	\$0	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 - 1 18-19 (Actual)	FY - 2 19-20 (Projected)	FY - 3 20-21 (Projected)	Current FY 21-22 (Projected)
State Board of Barber Examiners	\$656,544.64	\$783,291.30	\$800,000.00	\$807,000.00

(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) All “small businesses,” as that term is defined by the Regulatory Review Act and the SBA, that employ licensees would be subject to the final rulemaking. Many barber shops and barber schools meet the definition of “small business.” Since barber shops and barber schools are licensees, such small businesses will be impacted as they will have to pay the increased fees for applications and biennial license renewal. There are 2,098 barber shops and 42 barber schools licensed in Pennsylvania. In addition, there are initial applications for approximately 235 barber shops and 5 barber schools submitted to the Board annually. The Board does not collect data relating to the size of other businesses that employ its licensees, such as nursing care facilities (skilled nursing facilities) and psychiatric and substance abuse hospitals. Please also see the response to Question 15.
- (b) There are no projected reporting or recordkeeping costs required for compliance.
- (c) Since barber shops and barber schools are licensees, such small businesses will be impacted as they will have to pay the increased fees for applications and biennial license renewal. In addition, small businesses may be impacted by an increase in application and biennial renewal fees if they choose to pay these fees on behalf of their employees.
- (d) The Board has evaluated and considered increasing fees since 2019. As previously stated, the Board currently has a deficit fund balance. With the deficit, expenditures exceed revenue. Section 14 of the act mandates a fee increase when expenditures outpace revenue. Thus, based upon the insufficient revenue and the deficit spending, the Board determined that fee increases are the only way to sustain operations, ensuring public health and safety.

(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.

No groups with particular needs have been identified.

(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 considers the regulation to be the least burdensome and acceptable alternative. This increase is necessary to ensure the fiscal integrity of the Board and to ensure that the Board’s mandate to protect the health, safety and welfare of the public is carried out. The new fee structure for application fees is beneficial for licensees generally as the costs associated with each application will be paid by the applicant rather than distributed among the Board’s licensees. The Board considered an alternative fee increase that did not include a graduated fee schedule. The Board believes the graduated increases of application and biennial renewal fees are appropriate because the increases for application fees are reflective of actual costs to process applications and the increases for biennial renewal fees coincide more closely with the projected expenses for each biennium.

(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 performance 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 applicants pay the application fees at the time the application is submitted, and all licenses are renewed biennially. The Board did not consider less stringent reporting requirements or deadlines for small businesses or for licensees who work for small businesses as there are no other feasible alternatives.
- c) There are no compliance or reporting requirements that could be consolidated or simplified. The application and biennial renewal processes are the same whether a particular licensee or applicant is, or is employed by, a small or large business.
 - d) The regulation does not contain design or operational standards that need to be altered for small businesses.
 - e) To exclude any applicants or licensees from the requirements contained in the final rulemaking based on the size of the business would not be consistent with public health and welfare because it would prevent the Board from obtaining adequate revenue to meet projected expenditures, thus, the Board would not be able to carry out its statutory mandate.

(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.

The Board relied on financial records of the Board presented by the BFO, including the BFO Financial Report and fee report forms that provide the breakdown of costs for application fees. (See Attachment "A"). The Board also relied on fee information contained in the statutes, regulations, application forms, and other data contained on the webpages of the surrounding states in the Northeast Region.

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

- A. The length of the public comment period: 30 days from publication in the PA Bulletin
- B. The date or dates on which any public meetings or hearings will be held: No public hearings are scheduled. The proposed rulemaking was discussed at public Board meetings on June 29, 2020, February 22, 2021 and April 19, 2021. The final rulemaking was discussed and adopted at the public Board meeting on November 22, 2021.
- C. The expected date of delivery of the final-form regulation: Winter 2022

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| D. The expected effective date of the final-form regulation: | Winter 2022 |
| E. The expected date by which compliance with the final-form regulation will be required: | Upon publication in the PA Bulletin as final. |
| F. The expected 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 regularly evaluates the effectiveness of its regulations. Additionally, the Board regularly reviews requests by licensees and members of the public to amend its regulations causing the Board to evaluate the regulations' impact and necessity. The Board reviews all regulatory proposals at regularly scheduled meetings. The Board is scheduled to meet in 2021 on the following date: December 20. The Board is scheduled to meet in 2022 on the following dates: February 14, April 25, June 27, August 15, October 17, and December 19.