

PROPOSED RULEMAKING

STATE BOARD OF BARBER EXAMINERS

[49 PA. CODE CH. 3]

Student Records and Curriculum

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

A. *Effective Date*

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

B. *Statutory Authority*

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

C. *Background and Purpose*

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

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

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

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

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

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

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

D. Description of Proposed Amendments

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

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

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

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

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

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

E. Fiscal Impact and Paperwork Requirements

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

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

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

F. Sunset Date

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

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 3, 2008, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly, and the Governor of comments, recommendations or objections raised.

H. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Christopher McNally, Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-427 (Student Records and Curriculum), when submitting comments.

VINCENT IACONO,
Chairperson

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

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART 1. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 3. STATE BOARD OF BARBER EXAMINERS

STUDY IN BARBER SHOPS

§ 3.71a. Notification.

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

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

§ 3.72. Student's records.

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

* * * * *

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

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

SCHOOLS OF BARBERING

§ 3.87. Student's records.

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

* * * * *

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

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

§ 3.90. Student curriculum.

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

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

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

(d) * * *

[(c)] (e) * * *

[(d)] (f) * * *

[(e)] (g) * * *

[(f)] (h) * * *

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

[(h)] (j) * * *

§ 3.103. Fees.

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

* * * * *

Certification of student status or student training hours \$30

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