

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF BARBER EXAMINERS [49 PA. CODE CH. 3] Deletion of Examination Fees

The State Board of Barber Examiners (Board) amends §§ 3.41, 3.45 and 3.103 (relating to applications for examinations; retaking examination; and fees) to read as set forth in Annex A.

A. *Effective date*

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

B. *Statutory Authority*

The final-form rulemaking is authorized under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and sections 6 and 14 of the Barber License Law (act) (63 P. S. §§ 556 and 564).

C. *Background and Purpose*

The amendment to § 3.41 deletes outdated provisions related to applying to take the examination. Applications are no longer sent to the Board. Applications are sent to the testing organization. To avoid confusing applicants, the Board is removing this provision. The Board is also removing the requirement that the application include a notarized statement from a physician indicating that the student is free from contagious and infectious diseases. This provision has become outdated because the requirement for a statement was removed from the act by the legislature in 2002. The amendment to § 3.45 deletes an outdated provision that allows applicants who fail an examination to request a personal interview with the Board to review the examination papers. The Board no longer administers the examination and is not permitted to view the exam. The Board is removing this provision as it is no longer applicable to the examination process. The amendment to § 3.103 deletes references to the fees for the theory and practical examination for barbers and barber teachers and the theory examination for managers. These fees are set by the administrators of the examinations, not by the Board. To avoid the necessity of amending the regulations whenever the examination administrator changes the fees, the Board is deleting references to the examination fees.

D. *Summary of Comments and Responses on Proposed Rulemaking*

Notice of the proposed rulemaking was published at 32 Pa.B. 5416 (November 2, 2002). Publication was followed by a 30-day public comment period during which the Board received no public comments. Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC). The House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The following is a response to the comments.

Section 3.41(a)

IRRC commented that this subsection required applications for examinations to be filed with the Board. However, the Board's website instructs applicants to submit applications directly to the testing organization. This subsection has become outdated, as procedures for applying to take the exam have changed. IRRC recommended that the Board incorporate any changes to this section into the final-form rulemaking. The Board agrees and has amended this section accordingly.

Section 3.45(b)

IRRC commented that this subsection stated that applicants may request a personal interview with the Board for review of examination papers. However, the Board does not administer the examination and no longer provides opportunities for personal interviews. This subsection has become outdated, as the Board no longer has any part in administering or grading the examination. IRRC recommended that the Board incorporate any changes to this section into the final-form rulemaking. The Board agrees and has amended this section accordingly.

E. *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no fiscal impact on the Commonwealth or its political divisions. The final-form rulemaking will avoid preparation of new regulations each time that an examination fee is changed and should not create additional paperwork for the private sector.

F. *Sunset Date*

The Board continuously monitors 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 17, 2002, the Board submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 5416, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on January 27, 2004, the final-form rulemaking was approved by the HPLC. On February 11, 2004, the final-form rulemaking was approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 12, 2004, and approved the final-form rulemaking.

H. *Contact Person*

Further information may be obtained by contacting Sara Sulpizio, Administrative Assistant, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-3402, www.dos.state.pa.us.

I. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 32 Pa.B. 5416.

(4) The final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

J. Order

The Board, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 3, are amended by amending §§ 3.41, 3.45 and 3.103 to read as set forth in Annex A.

(Editor's Note: The amendments to §§ 3.41 and 3.45 were not included in the proposal published at 32 Pa.B. 5416.)

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on publication in the Pennsylvania Bulletin.

LEE CAMERONI, Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 1297 (February 28, 2004).)

Fiscal Note: Fiscal Note 15-425 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 3. STATE BOARD OF BARBER EXAMINERS

EXAMINATIONS

§ 3.41. Applications for examinations.

An examination application shall include payment of the fee and a notarized statement certifying the completion of the hours of instruction, from either a barber school or a barber-teacher or manager-barber with whom the student has studied and trained.

§ 3.45. Retaking examination.

If an applicant fails the written or the practical test, the applicant is required to retake the portion which was failed within 1 year. Both portions of the examination

shall be retaken if the applicant does not pass the entire examination during the 1-year period following the initial testing.

SCHOOLS OF BARBERING

§ 3.103. Fees.

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

Table with 2 columns: Fee description and Amount. Includes items like 'Licensure of barber, barber shop manager or barber teacher' for \$10, 'Biennial renewal of barber license' for \$42, and 'Verify license/permit/registration' for \$15.

[Pa.B. Doc. No. 04-476. Filed for public inspection March 19, 2004, 9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 3040]

Subsidized Child Day Care Eligibility; Head Start Expansion

Statutory Authority

The Department of Public Welfare (Department) adopts this final-omitted rulemaking to read set forth in Annex A under the authority of 62 P. S. §§ 201—211, 401—493 and 701—703 and section 1505-D of the act of December 23, 2003 (P. L. 304, No. 48) (Act 48) (24 P. S. § 15-1505-D).

Notice of proposed rulemaking is omitted in accordance with section 204(1) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1) and (3)), known as the Commonwealth Documents Law, and 1 Pa. Code § 7.4(1) and (3). This final-omitted rulemaking relates to Commonwealth grants and benefits. In addition, the Department has determined that notice of proposed rulemaking is impracticable and unnecessary under Act 48, which specifies that the Department must promulgate a final-omitted rulemaking within 90 days of the effective date of Act 48.

Purpose of Final-Omitted Rulemaking

The purpose of the final-omitted rulemaking is to assure eligibility for child care subsidy for children enrolled in Head Start whose parents/caretakers need extended hours and days of Head Start service to work.

Need for Final-Omitted Rulemaking

The final-omitted rulemaking is needed to implement the requirements of section 1501-D of Act 48 (24 P. S.

§ 15-1501-D), which requires the Department to promulgate a final-omitted rulemaking within 90 days of the effective date of Act 48. Act 48 took effect December 23, 2003. Thus, a final-omitted rulemaking must be promulgated by March 22, 2004. This final-omitted rulemaking amends regulations for subsidized child day care in Chapter 3040 (relating to subsidized child day care eligibility) by adding provisions for Head Start expansion.

Requirements

Section 3040.29 (relating to Head Start expansion) sets forth eligibility requirements for subsidized child day care for a family enrolled in the Head Start expansion program. Child care service must be provided in a certified or registered child care facility that complies with § 3040.20(a)(3) (relating to benefits and limitations) and has a collaborative agreement with a Head Start program or by a Head Start program. The section also requires that:

- The parent/caretaker must apply for the Head Start expansion program at the local child care information services agency.
- The family must meet the regulatory description of family composition.
 - At the time of application, each parent/caretaker must verify a minimum of 25 hours of work per week.
 - Each parent/caretaker must verify that the service is needed to work.
 - The parent/caretaker must provide verification from the Head Start program that the Head Start expansion program meets Federal Head Start standards.
 - A family is subject to waiting list requirements.
 - A family fee will be assessed at the minimum copayment for a family of one.
 - The family fee must be paid timely.
 - Subsidy for the child may be suspended during summer school breaks.

A child enrolled in a Head Start expansion program may be placed in suspended subsidy for not more than 90 days when the child's parent/caretaker does not need child care during a summer school break and the parent/caretaker anticipates that the child will return to the Head Start program in the fall. This provision assures access and continuity of care for the child and family. When a child needs care during the summer school break and the child's Head Start expansion program is closed, the parent/caretaker may apply for subsidized child care under other sections of Chapter 3040.

Section 1501-D of Act 48 provides that the Department is required to promulgate regulations necessary to assure eligibility for child care subsidy for children enrolled in Head Start whose parents need extended hours of Head Start services to work. To make the benefits of Head Start expansion available to all children enrolled in Head Start whose families need extended hours and days of service, the Department is adding "caretakers" as persons eligible to apply for the expanded Head Start program. This will enable children living with caretakers to enjoy the same benefits available to children living with their parents. The Department finds that this interpretation harmonizes with the Federal Head Start eligibility regulations in 45 CFR 1305.2(e) (relating to definitions) regarding families.

Finally, since the definition of "extended day services" provides for extended day services for both hours and

days beyond the hours funded through the Federal Head Start program, the Department has provided for both hours and days of extended services. (See section 1501-D of Act 48.)

Affected Organizations and Individuals

The Department will incur costs as a result of this final-omitted rulemaking. Families whose working hours and days extend beyond the hours of the Head Start program day will benefit from this final-omitted rulemaking.

Accomplishments and Benefits

Working families with a child enrolled in Head Start will benefit from this final-omitted rulemaking. The final-omitted rulemaking allows a family, at a low fee, to be eligible for subsidized child care for hours and days beyond the hours and days funded through the Federal Head Start program. Families will receive the necessary supports to continue employment. Eligible children will benefit from the stability and continuity of the child care experience, conducted in a developmentally appropriate child care environment.

Fiscal Impact

Public Sector

Commonwealth—The Commonwealth will incur additional costs.

Political Subdivisions—There is no fiscal impact on political subdivisions.

Private Sector—There is no fiscal impact on the private sector.

General Public—There is no fiscal impact on the general public.

Paperwork Requirements

Parents/caretakers will need to complete an application for the Head Start expansion program, verify that their child is enrolled in a Head Start program, verify hours of work extending beyond the Head Start program day and provide verification from the Head Start program that the Head Start expansion program meets Federal Head Start standards.

Sunset Date

No sunset date is established for this final-omitted rulemaking.

Public Comment

Although this rulemaking is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments within 30 days from the date of this publication for consideration by the Department as to whether the final-omitted rulemaking should be revised. Comments should be sent to the Department of Public Welfare, Kathryn Holod, Director, Bureau of Child Day Care Services, P.O. Box 2675, Harrisburg, PA 17105, (717) 787-8691. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on February 4, 2004, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Children and Youth Committee and

the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). A copy of this material is available to the public upon request.

Under section 5.1(j.2) of the Regulatory Review Act, on March 10, 2004, the final-form rulemaking was approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 11, 2004, and approved the final-omitted rulemaking.

Findings

The Department finds that:

(1) Public notice of intention to adopt the administrative regulation adopted by this order is not required because it relates to Commonwealth grants and benefits under section 204(1) of the Commonwealth Documents Law and the regulation thereunder, 1 Pa. Code § 7.4(1). In addition, public notice of intention to adopt the administrative regulation adopted by this order is impracticable and unnecessary under section 204(3) of the CDL and regulations thereunder, 1 Pa. Code § 7.4(3).

(2) The adoption of this regulation in the manner provided in this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code and Act 48.

Order

The Department, acting under the Public Welfare Code and Act 48, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapter 3040, are amended by adding § 3040.29 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Attorney General and General Counsel for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

ESTELLE B. RICHMAN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 1643 (March 20, 2004).)

Fiscal Note: 14-482. No fiscal impact; (8) recommends adoption. This regulatory action provides eligibility for child care subsidies for children enrolled in Head Start whose parents/caretakers need extended Head Start hours in order to work. Costs to the Federal Child Care Development Fund are estimated at \$405,000 for the remainder of 2003-04 and are included in the current child care appropriation. Costs to the Federal Child Care

Development Fund are estimated at \$1,620,000 for 2004-05 and are expected to increase by 5% annually thereafter.

Annex A

TITLE 55. PUBLIC WELFARE

**PART V. CHILDREN, YOUTH AND FAMILIES
MANUAL**

Subpart B. ELIGIBILITY FOR SERVICES

**CHAPTER 3040. SUBSIDIZED CHILD DAY CARE
ELIGIBILITY**

GENERAL REQUIREMENTS

§ 3040.29. Head Start expansion.

(a) A child enrolled in Head Start whose parent/caretaker needs extended hours or days of child care in order to work is eligible for child care subsidy. A parent/caretaker shall apply for the Head Start expansion program.

(b) The parent/caretaker shall obtain from the Head Start program and provide to the local CCIS agency, verification that the Head Start expansion program meets the Federal Head Start standards.

(c) When a child in the family as described in § 3040.28(1) and (2) (relating to composition of a family) is enrolled in Head Start, the provisions of this section apply to that child.

(d) Child care service must be provided in a certified or registered child care facility which complies with § 3040.20(a)(3) (relating to benefits and limitations) that has a collaborative agreement with a Head Start program or by a Head Start program.

(e) A family shall meet only the following conditions:

(1) To be eligible under this section, at the time of application each parent/caretaker shall provide verification of a minimum of 25 hours of work per week as required by § 3040.34(a)(3)(i) (relating to nonfinancial eligibility). Each parent/caretaker shall also verify that extended hours and days of service are needed in order to work.

(2) A family eligible for child care subsidy under this section shall be subject to all waiting list conditions described in § 3040.54 (relating to waiting list).

(3) A family eligible for child care subsidy under this section shall pay the minimum copayment for a family of one as specified in Appendix B (relating to copayment chart family copayment scale (based on the 2000 Federal poverty income guidelines)).

(4) A family receiving child care subsidy under this section shall make timely copayment as described in § 3040.61 (relating to general requirements regarding copayment).

(f) Subsidy for a child receiving child care subsidy under this section may be suspended during summer school breaks for a period not to exceed 90 consecutive days.

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