

**Maryland General Assembly
Department of Legislative Services**

**Emergency Regulation
Department of Labor, Licensing, and Regulation
(DLS Control No. 14-361)**

Overview and Legal and Fiscal Impact

This emergency regulation increases the fees that the State Board of Cosmetologists may charge a candidate to take or re-take the examination to become a senior cosmetologist, cosmetologist, nail technician, or esthetician.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies. The fees increased by the regulation are temporary and paid directly to the examination vendor.

Regulation of COMAR Affected

Department of Labor, Licensing, and Regulation:

Board of Cosmetologists: General Regulations: COMAR 09.22.01.13

Legal Analysis

Background

In order to become a licensed cosmetologist, nail technician, or esthetician, an individual must (1) enroll in an approved cosmetology school or (2) train as a registered apprentice in a salon under a senior cosmetologist, an esthetician with two years of experience, or a nail technician with two years of experience. Additionally, the candidate must pass one or more licensing examinations, depending on the license the candidate is seeking. Although a private vendor administers the examinations on behalf of the board, the board adopts regulations that establish the applicable fees for taking or retaking an examination.

Summary of Regulation

The regulation increases the fees that a candidate must pay to apply for the senior cosmetologist, cosmetologist, nail technician, or esthetician examination. The regulation increases the fee for taking a cosmetologist, esthetician, and nail technician examination from \$80 to \$100, and the fee for taking a senior cosmetologist examination from \$50 to \$100. A candidate must pay \$70, instead of \$50, to retake the practical part of the examination for all categories. In addition, the fee for retaking any full examination increases to \$100, the same fee for taking the examination for the first time.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Labor, Licensing, and Regulation cites § 5-205(b) of the Business Occupations and Professions Article as authority for the regulation. Specifically, § 5-205(b) (1) requires the board to establish reasonable fees for examinations, among other things, and § 5-205(b) (2) (I), in part, prohibits the board from establishing examination fees that exceed the costs of the required examinations.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Reason for Emergency Status

The department has requested emergency status to begin on December 1, 2014 and expire on May 30, 2015 to coincide with the temporary fee increase approved by the Board of Public Works to be paid to the vendor administering examinations until the new exam administration contract is finalized. The requested period is within normal timeframes approved by the committee, but the requested date for commencement of emergency status is earlier than permissible under the Administrative Procedure Act; the date of commencement will coincide with the date of approval by the committee of the request for emergency status.

Fiscal Analysis

There is no fiscal impact on State or local agencies. The fees increased by the regulation are temporary and paid directly to the examination vendor.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has minimal or no impact on State or local governments. Examination fees are increased for all cosmetology/esthetician/nail technician examinations (from \$50-\$80 to \$100). The related reexamination fees are increased from \$50-\$80 to \$100 for a full exam, and from \$50 to \$70 for the practical portion of an exam. The examination fees are paid directly by applicants to Parametric, the examination vendor, and, therefore, have no effect on department revenues or expenditures. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

The department advises that it must increase the examination fees on a temporary basis. The fee increase is supported by the November 12, 2014 Board of Public Works Action Agenda item 4-S-MOD contract modification, which approved the contract modification to extend the existing examination vendor contract with Parametric by six months at an increased cost, effective December 1, 2014. Parametric will continue to offer the examinations while the department completes the new procurement for testing services but will charge a higher amount for the examinations. The cost of examinations will be reduced when the new contractor is in place. The new contract is scheduled to be presented to the Board of Public Works on January 7, 2015. The regulation will provide the department sufficient time to complete the procurement and to approve new examination questions as well as allow for a transition period for the new contractor. The anticipated date for the new testing company to begin offering examinations is April 2015.

Contact Information

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