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TITLE 816 BOARD OF BARBER EXAMINERS

Proposed Rule LSA Document #05-146

DIGEST

Amends 816 IAC 1-2-11 concerning the use of instructors. Amends 816 IAC 1-3-4 concerning reexamination requirements. Amends 816 IAC 1-3-6 concerning the barber examination. Amends 816 IAC 1-4-1 concerning barber instructors. Adds 816 IAC 1-5 to establish fees for application, issuance or renewal of barber licenses, barber school licenses, barber instructor licenses, or barber shop licenses; to establish fees for examinations for licensure to practice as a barber instructor or barber; to establish fees for temporary permits; to establish fees for temporary work permits; to establish fees for verification of license status to another state or jurisdiction; and to establish fees for duplicate licenses. Repeals 816 IAC 1-3-1. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Affected:

NAICS 611511: Barber Colleges: 17

NAICS 812111: Barber Shops: 1,767

The types of small businesses most likely to be affected by the proposed rule are barber schools and barber shops.

Estimated Administrative Costs

The Indiana Professional Licensing Agency provides administrative services to 39 boards, commissions, and committees. These boards, commissions, and committees are charged with regulating a wide range of professionals and entities. The statutes include both standard setting and regulatory authority. By statute, IPLA consolidates budget requests and is urged to consolidate and coordinate operations of the various boards, commissions, and committees where feasible in order to provide efficient and cost effective services. The boards, committees and commissions are required to establish fees sufficient to cover the cost of operations, both direct and indirect. Fees are deposited into the general fund from which IPLA receives an appropriation.

It is difficult to determine whether fees equal the direct and indirect costs of each board, commission, and committee because IPLA is statutorily required to consolidate functions and budgets where possible. Renewal fee revenues fluctuate depending on the renewal cycle for a profession. In addition, fees are assessed for a variety of functions and the amounts collected from year to year will vary.

The operations of the barber board are labor intensive with both inspections of facilities and the administration of examinations. Examinations are administered by staff for approximately six times per year at various barber schools. In addition, approximately five examinations per year are administered at correctional facilities around the state. The board is in the early stages of outsourcing the administration of the examinations. For many years the maximum statutory examination fee was \$50 which is insufficient to generate enough revenue to utilize a professional examination service. The increase in cost will be more than compensated for in increased benefits including not only a savings of staff time but, also in the ability to provide applicants with the ability to take the examinations at sites located around the state with almost immediately availability of results. The time for obtaining license will be shortened.

The board consists of four members. The board meets at least six times per year in Indianapolis. The board is staffed by a board director, assistant board director, and five case managers. These individuals also staff two other boards and spend the majority of their time working for the cosmetology board which has approximately 10 times the total number of licenses as the barber board. In addition, there are four cosmetology inspectors. The inspectors inspect cosmetology salons, esthetic salons, electrology salons, tanning salons, manicure salons, cosmetology schools, barber shops, and barber schools. In addition to regular inspections, they may at times assist in the investigation of consumer complaints. There is one supervisor of the investigators who is also responsible for inspections and investigations conducted by other IPLA boards and commissions.

The current total number of licensees for all barber board license types is 5796. There are approximately 17 barber schools and 1,767 shops, all of which must be routinely inspected. The time required for an inspection varies by the size of the facility and the services provided by the facility. A small barber shop can be inspected in as little as 15-30 minutes. A large shop might take 2 hours or more to inspect. Inspection of a school may take one-half day or more. How many inspections can be performed in one day will vary by the location of the facilities to be inspected. A greater number of inspections can be conducted in a metro area than in a rural area over the same time period. An inspector's schedule is affected by the amount of time spent traveling from facility to facility.

Staff salaries and benefits (1/3 director, assistant director, 5 case managers): \$99,580
 Inspector salaries and benefits (four inspectors) (10% of total): \$16,734
 Additional expenses:
 License production cost: postage, printing, supplies (based on 280 licenses issued in 2004): \$3,570 (\$12.75 per license)
 Six board meetings per year (4 board members)
 Per Diem: \$1,200 annually
 Travel and subsistence: \$3,875 annually

Estimated Total Annual Economic Impact on Small Businesses

The following figures are based upon the number of applications for licensure and renewal applications received in 2004.

Applications for licensure	Proposed Application		Yearly Revenue	Proposed revenue	Difference
	Current application fee	fee			
School (1)	\$300	\$500	\$300	\$500	\$200
Shops (150)	\$40	\$50	\$6000	\$7500	\$1500
	Proposed Renewal		Yearly Revenue	Proposed revenue	Difference
	Current renewal (4 year renewal*)	fee			
School (1 renewed in 2004)	\$300	\$500	\$300	\$500	\$200
Shops (353 renewed in 2004)	\$40	\$150	\$14,120	\$52,950	\$38,830

Justification of Requirements or Costs

Pursuant to IC 25-1-8-2, fees shall not be less than are required to pay all of the costs, both direct and indirect, of the operation of the barber board. In 2005, the General Assembly enacted SEA 139 (P.L.194-2005) to give the Indiana Professional Licensing Agency and the boards, commissions, and committees it serves the authority to set fees by rule that had previously been set by statute. This change was considered imperative in order for the boards and commissions to keep up with the rising costs of national examinations and other expenses associated with operating a licensing board.

However, it should be emphasized that the proposed rule changes will not increase or decrease the number of small businesses already affected by the current regulations.

Consideration of Alternative Methods of Achieving the Purpose of the Proposed Rule

Since the rule provides for fees only, the consideration of alternate compliance or reporting requirements, or other operational standards was not appropriate. There are no new reporting or record keeping requirements for small businesses as a result of the proposed rule.

Explanation of Determination

The Board sought to set fees at the minimum levels needed in order to comply with IC 25-1-8-2.

Supporting Data, Studies, or Analyses

The agency used the following data in determining the fiscal impact of the rule:

The board conducted a comparison of fees assessed in surrounding states. The following states were surveyed: Illinois, Iowa, Michigan, Minnesota, Ohio, and Wisconsin. The current application fee for barber schools is \$300.00. This fee is being increased to \$500. The average application fee in the surveyed states is \$596.33. The current renewal fee for barber schools is \$300.00 every four years. This fee is being increased to \$500 every four years or \$125 per year. The average annual renewal fee in the surveyed states is \$231.33 or \$925.32 every four years.

Fees currently assessed by the board are insufficient to cover the cost of providing services for barber shops. The current application fee for barber shops is \$40. This fee is being increased to \$50. The average application fee in the states surveyed is \$60.50. The renewal fee for each barber shop is \$40 every four years (\$10 per year). The board proposes to increase the fee to \$150 every four years (\$37.50 per year). The average yearly renewal fee in the states surveyed is \$39.

Currently, a staff of seven employees works for the State Board of Barber Examiners. These employees also staff the Cosmetology and Funeral Boards, which occupy the majority of the staff's time. An additional four employees serve as inspectors for the cosmetology and barber boards and are on the road. In addition, other IPLA employees provide services to the Barber Board and the thirty-eight other boards and commissions served by the IPLA. These include executive staff, legal, IT, HRD, receptionists, mail room, etc. Aside from salaries and benefits for staff, expenses include printing, postage, supplies, equipment, mileage for the inspectors' automobiles, web-hosting, etc. IPLA revenue is also used to support the operations of other state agencies with which we do business such as IDOA, ATG, SBA, and IOT.

816 IAC 1-2-11 **816 IAC 1-3-6**
816 IAC 1-3-1 **816 IAC 1-4-1**
816 IAC 1-3-4 **816 IAC 1-5**

SECTION 1. 816 IAC 1-2-11 IS AMENDED TO READ AS FOLLOWS:

816 IAC 1-2-11 Use of instructors

Authority: IC 25-7-5-14; IC 25-7-5-15

Affected: IC 25-7-11; IC 25-7-12

Sec. 11. (a) In order for a barber school licensee to operate a barber school, ~~there must be a registered licensed~~ **there must be a registered licensed** barbering instructor **must be** physically present at all times where and while:

(1) classroom instruction is being given; and ~~where and while~~

(2) students are engaged in the practice of barbering.

However, where ~~there are~~ audio-visual aids or tapes ~~are~~ being used in the adjoining rooms, the presence of one (1) ~~registered licensed~~ **registered licensed** barber instructor in the clinic room is sufficient.

(b) ~~Notwithstanding subsection (a), a registered barbering instructor may be absent from the classroom because of personal illness or the death of a close relative, or to further the barbering instructor's education related to barber instructor, if:~~

~~(1) the absence does not exceed three (3) days;~~

~~(2) a registered Indiana barber with at least five (5) years experience or a student instructor who is enrolled in a school of barbering licensed by the board takes the place of the absent registered barbering instructor; and~~

~~(3) the board is notified, by telephone immediately and in writing within seventy-two (72) hours, of the absence of the barbering instructor and of the reason for, and duration of, the absence.~~

~~(c)~~ (b) Every instructor in ~~an accredited a licensed~~ **an accredited a licensed** school shall:

(1) devote his ~~or~~ her entire time during school or class hours to that of instructing the students; and ~~shall~~

(2) not apply time to ~~the~~ private practice of barbering for compensation.

(Board of Barber Examiners; Rule 24; filed Feb 6, 1981, 4:10 p.m.: 4 IR 374; filed Feb 20, 1986, 3:00 p.m.: 9 IR 1660; filed Nov 28, 1988, 5:30 p.m.: 12 IR 922; readopted filed Jun 22, 2001, 8:59 a.m.: 24 IR 3823)

SECTION 2. 816 IAC 1-3-4 IS AMENDED TO READ AS FOLLOWS:

Rule 3. Examinations

816 IAC 1-3-4 Reexamination requirements; barber

Authority: IC 25-7-5-14; IC 25-7-5-15

Affected: IC 25-1-6-4; IC 25-7

Sec. 4. (a) ~~This section establishes reexamination requirements under IC 25-7-1-5(b) for~~ An applicant who has failed one (1) or both portions of the barber examination ~~and:~~

~~(b)~~ An applicant who:

(1) files a ~~new repeat examination~~ **new repeat examination** application; and

(2) pays the required fee; and

(3) ~~takes the repeat examination~~ **takes the repeat examination** within ninety (90) days after the date of the first examination ~~failure;~~

shall be required to take only the portion or portions of the examination previously failed.

~~(c)~~ (b) An applicant who fails to ~~apply within a ninety (90) day period, or fails to pass the previous reexamination repeat examination within ninety (90) days after the date of the first examination failure~~ will be required to take only the portion or portions of the examination previously failed upon filing ~~the following~~ within one (1) year after the date of the examination failure:

(1) A ~~new repeat examination~~ **new repeat examination** application. with

(2) ~~The required fees.~~

(3) Proof of completing two hundred fifty (250) additional hours of training in ~~an approved a licensed~~ **an approved a licensed** school of barbering. ~~and pay the examination fee.~~

~~(d)~~ (c) An applicant who fails to apply within one (1) year after the date of the first examination failure shall ~~be required to do the following:~~

(1) File a new application as provided by IC 25-1-6-4.

~~(1) with~~ **(2) Submit the following:**

(A) Proof of completing two hundred fifty (250) additional hours of training in an approved school of barbering.

~~(2) pay~~ **(B) The examination fee; and required fees.**

~~(3) shall~~ Pass both portions of the examination.

(d) All first attempt state board examinations must be taken within one (1) year after graduation from an applicable course in a licensed barber school. Any repeat examination must be successfully completed within three (3) years after graduation from the same course.

(e) The board may waive the requirements in subsection (c) if an applicant can show good cause. *(Board of Barber Examiners; 816 IAC 1-3-4; filed Jan 20, 1993, 4:00 p.m.: 16 IR 1511; readopted filed Jun 22, 2001, 8:59 a.m.: 24 IR 3823)*

SECTION 3. 816 IAC 1-3-6 IS AMENDED TO READ AS FOLLOWS:

816 IAC 1-3-6 Barber examination; application; filing deadline

Authority: IC 25-7-5-14; IC 25-7-5-15

Affected: IC 25-7

Sec. 6. A completed application and the applicable ~~fee fees~~ for the licensure by examination to practice as a ~~registered~~ **licensed** barber shall be filed with the board ~~no not~~ later than two (2) weeks ~~prior to before~~ the **next** scheduled examination date. *(Board of Barber Examiners; 816 IAC 1-3-6; filed Jan 20, 1993, 4:00 p.m.: 16 IR 1512; readopted filed Jun 22, 2001, 8:59 a.m.: 24 IR 3823)*

SECTION 4. 816 IAC 1-4-1 IS AMENDED TO READ AS FOLLOWS:

816 IAC 1-4-1 Barbering instructors; education and training; experience requirements

Authority: IC 25-7-5-14; IC 25-7-5-15

Affected: IC 25-7-5

Sec. 1. ~~(a)~~ To qualify for ~~registration~~ **licensure** as a barbering instructor, an individual must:

(1) be an Indiana ~~registered~~ **licensed** barber;

(2) be a graduate of an accredited high school or have received a high school equivalency certificate (GED); and

(3) have completed at least nine hundred (900) hours in instructor training from a school of barbering.

~~(b) Until July 1, 2001, candidates to become barber instructors may count five (5) years of full-time practice as an Indiana barber as the equivalent of nine hundred (900) hours of instructor training from a school of barbering.~~ *(Board of Barber Examiners; 816 IAC 1-4-1; filed Nov 28, 1988, 5:30 p.m.: 12 IR 922; filed Sep 18, 1998, 11:46 a.m.: 22 IR 454; readopted filed Jun 22, 2001, 8:59 a.m.: 24 IR 3823)*

SECTION 5. 816 IAC 1-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Fees

816 IAC 1-5-1 Application/issuance fees

Authority: IC 25-1-8-2; IC 25-7-6-1; IC 25-7-11

Affected: IC 25-7

Sec. 1. The board shall charge and collect the following application/issuance fees:

(1) Barber license: \$50

(2) Barber instructor license: \$50

(3) Barber shop license: \$50

(4) Barber school license: \$500

All fees in this category are currently forty dollars (\$40), except for school licenses, which are three hundred dollars (\$300). *(Board of Barber Examiners; 816 IAC 1-5-1)*

816 IAC 1-5-2 Examination fees

Authority: IC 25-1-8-2; IC 25-7-6-1; IC 25-7-11

Affected: IC 25-1-8-5; IC 25-7

Sec. 2. (a) If the board administers the examination, the examination or repeat examination fee is sixty dollars (\$60).

(b) If the board elects to use a professional examination service under IC 25-1-8-5, an applicant for licensure by examination shall pay the examination or repeat examination fee assessed by the professional examination service that administers the examination directly to the professional examination service. (Board of Barber Examiners; 816 IAC 1-5-2)

816 IAC 1-5-3 Temporary work permit fee

Authority: IC 25-1-8-2; IC 25-7-6-1; IC 25-7-11

Affected: IC 25-7

Sec. 3. The board shall charge and collect a ten dollar (\$10) fee for a temporary work permit. (Board of Barber Examiners; 816 IAC 1-5-3)

816 IAC 1-5-4 Renewal fees

Authority: IC 25-1-8-2; IC 25-7-6-1; IC 25-7-11

Affected: IC 25-7

Sec. 4. The board shall charge and collect the following renewal fees:

(1) Barber license: \$100

(2) Barber instructor license: \$100

(3) Barber school license: \$500

(4) Barber shop license: \$150

(Board of Barber Examiners; 816 IAC 1-5-4)

816 IAC 1-5-5 Fee for verification of a license to another state

Authority: IC 25-1-8-2; IC 25-7-6-1; IC 25-7-11

Affected: IC 25-7

Sec. 5. The board shall charge and collect a ten dollar (\$10) fee for verification of a license to another state or jurisdiction. (Board of Barber Examiners; 816 IAC 1-5-5)

816 IAC 1-5-6 Fee for a duplicate license or permit

Authority: IC 25-1-8-2; IC 25-7-6-1; IC 25-7-11

Affected: IC 25-7

Sec. 6. The board shall charge and collect a ten dollar (\$10) fee for the issuance of a duplicate license or permit. (Board of Barber Examiners; 816 IAC 1-5-6)

SECTION 6. 816 IAC 1-3-1 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on February 13, 2006 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W072, Indianapolis, Indiana the Board of Barber Examiners will hold a public hearing on proposed amendments concerning the use of instructors, concerning reexamination requirements, concerning the barber examination, concerning barber instructors, and new rules to establish fees for application, issuance or renewal of barber licenses, barber school licenses, barber instructor licenses, or barber shop licenses; to establish fees for examinations for licensure to practice as a barber instructor or barber; to establish fees for temporary permits; to establish fees for temporary work permits; to establish fees for verification of license status to another state or jurisdiction; to establish fees for duplicate licenses; and to repeal 816 IAC 1-3-1.

The Board of Barber Examiners has the authority to promulgate rules establishing the fees for examination, application, issuance, renewal, reinstatement, replacement or duplicate licenses, verification of licenses, or temporary permits for barbers, barber instructors, barber schools, and barber shops. This proposed rule establishes the fees in compliance with the statutory changes in

SEA 139 (P.L.194-2005). This proposed rule will have costs to entities.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency