

Comments of the Independent Regulatory Review Commission



State Board of Cosmetology Regulation #16A-4518 (IRRC #3391)

Practice of Massage Therapy in Cosmetology or Esthetician Salons

February 15, 2024

We submit for your consideration the following comments on the proposed rulemaking published in the December 16, 2023 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the State Board of Cosmetology (Board) to respond to all comments received from us or any other source.

Section 7.150. Practice of massage therapy in cosmetology or esthetician salons. – Fiscal impacts; Clarity; Reasonableness of requirements, implementation procedures, and timetables for compliance.

Clarity

Paragraph (a)(2) states that a massage therapist licensed under the act is permitted to practice massage therapy within the approved premises of a licensed cosmetology salon or a licensed esthetician salon if the massage therapist practices in accordance with “this section, Chapter 20 (relating to State Board of Massage Therapy), the act and the Massage Therapy Law.” Similarly, Subsection (b) states that a massage therapist providing massage therapy services within the approved premises of a salon shall practice in accordance with “the act, this chapter and the Massage Therapy Law.” Since these provisions are nearly duplicative, we ask the Board to combine and clarify the requirements for the regulated community.

Fiscal impacts; Reasonableness of requirements, implementation procedures, and timetables for compliance

Clause (a)(3)(ii)(A) states that the size of the separate massage therapy room must be a minimum of 120 square feet. A commenter asserts that this requirement is onerous and not a true requirement for the safe and effective application of massage therapy. The commenter also raises concerns related to salons who have already incorporated massage therapy using rooms that are less than 120 square feet in size. We agree that salons needing to expand rooms to meet this requirement would likely face significant fiscal impacts. We also recognize the potentially negative impact on massage therapists currently employed by salons that choose not to expand to meet the requirement.

In the Regulatory Analysis Form provided with the regulatory package, the Board notes that the minimum requirement of 120 square feet was a concern raised by commenters as the Board was drafting the proposed regulation. The Board acknowledges that some salons may incur costs if renovations are necessary to meet the square foot requirements for massage therapy rooms, but asserts that most, if not all, massage therapy rooms currently in use should already be a minimum of 120 square feet in size because that is a generally accepted industry standard. Did the Board consider providing salons with an opportunity to obtain an exemption on a case-by-case basis?

We note that the Board intends for the proposed regulation to be effective upon publication in the *Pennsylvania Bulletin*. Has the Board considered including a delayed implementation in order to provide a timeframe for salons that require renovations to comply?

Finally, we note that this proposed regulation is being promulgated in conjunction with the State Board of Massage Therapy proposed regulation #16A-726 (IRRC #3392, “Practice of Massage Therapy in Cosmetology or Esthetician Salons”) to ensure consistency between the standards of both boards. Therefore, we ask the Board to reevaluate with the Massage Therapy Board the reasonableness of the appropriate minimum square-footage requirement in the final regulation, as well as ways to minimize fiscal impacts from implementation of the final regulation.