

VOLUME 47, ISSUE 22  
ISSUE DATE: **NOVEMBER 16, 2015**  
**PUBLIC NOTICES**  
**LAW AND PUBLIC SAFETY**  
**DIVISION OF CONSUMER AFFAIRS**  
**NEW JERSEY STATE BOARD OF COSMETOLOGY AND HAIRSTYLING**

**N.J.A.C. 13:28-1A.1 and 6.27**

**Notice of Receipt of Petition for Rulemaking**

**Definitions; Clinical Work Prerequisites and Limitations**

Petitioner: The Association of Cosmetology and Hairstyling Schools of New Jersey.

**Take notice** that on October 9, 2015, the New Jersey State Board of Cosmetology and Hairstyling (Board) received a petition for rulemaking from Darlene Fox on behalf of the Association of Cosmetology and Hairstyling Schools of New Jersey, an organization of cosmetology and hairstyling schools that includes Artistic Academy; Christine Valmy; The Hair Design School (three locations); P.B. School of Beauty; Robert Fiance Schools (four locations); Rizzieri Institute; The Shore Beauty School; Capri Institutes (four locations); Empire Beauty Schools (four locations); Parisian Beauty Academy; PM The School Jersey Shore; Roman Academy; and The Lab.

The petitioner requests that the Board undertake rulemaking to interpret what is meant by the "cost of materials" referenced in the definition of "clinic" set forth in the New Jersey Cosmetology and Hairstyling Act (Act) at N.J.S.A. 45:5B-3.h. The Act defines "clinic" as "a designated portion of a licensed school in which members of the general public may receive cosmetology or hairstyling services from registered students in exchange for a fee which shall be calculated to recoup only the cost of materials used in the performance of those services."

The petitioner requests that the Board amend its current regulations at N.J.A.C. 13:28-6.27, the section of the Board's rules that sets forth clinical work prerequisites and limitations, to address the issue of what is meant by the "cost of materials." The petitioner urges the Board to apply a common sense interpretation to the statute and adopt a regulation that would define "materials used" to encompass a comprehensive statement of the types of costs associated with providing clinic services, keeping in mind that no services may be offered or materials used, except under supervision of licensed instructors, in licensed facilities, which must satisfy strict standards mandated by the Board. The petitioner believes that the Board's current rules lack guidance which could lead to unintended consequences.

The petitioner states that all schools have their clinic fees prominently posted in the clinic area of their school, and that many schools also include the fees in the school catalog and other promotional materials clearly stating that services are provided by senior students under the direct supervision of licensed instructors. Additionally, the petitioner notes that

Board inspectors have access to clinic prices at each school inspection, and that the Board frequently reviews school catalogs and advertising materials that include clinic fees. The petitioner is not aware of the Board ever citing a school for charging excess fees.

The full text of the petitioner's suggested amendments follow:

N.J.A.C. 13:28-1A.1 shall be amended as follows (addition in boldface):

13:28-1A.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

. . .

**"Clinic" means a designated portion of a licensed school in which members of the general public may receive cosmetology and hairstyling services from registered senior students under supervision of licensed instructors.**

N.J.A.C. 13:28-6.27 shall be amended as follows (addition in boldface):

13:28-6.27 Clinical work prerequisites and limitations

(a)-(l) (No change.)

**(m) Fees may be charged to members of the public for services provided in the clinic. When determining fees, a school may broadly consider all reasonable costs related to the acquisition, inventory and use of materials related to providing the service. All costs related to delivery of such services may be considered, including but not limited to the cost of materials, overhead expenses, equipment, dedicated portion of facility, supervision of students performing services, cleaning services, utilities, liability, malpractice insurance, and administrative costs. Schools shall be given wide latitude to determine pricing in accordance with this provision.**

In accordance with N.J.A.C. 1:30-4.2, the Board shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.