

SHORT TITLE: Professions and occupations; relating to cosmetology; modifying authority to suspend, revoke or require certain licenses and permits; modifying hours for apprentice training; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 1010

By: Shurden

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 199.1, 199.3, 199.4, 199.7, as amended by Section 1, Chapter 184, O.S.L. 1992, 199.8 and 199.9 (59 O.S. Supp. 1993, Section 199.7), which relate to cosmetology; modifying and adding definitions; modifying authority to issue, suspend or revoke certificates of registration, licenses and permits; modifying name of executive officer; deleting provision for granting certain credit to certain students; restoring language deleted from certain definition; modifying hours of apprentice training required for operator's examination; making practice of cosmetology in unlicensed specialty salon unlawful; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 199.1, is amended to read as follows:

Section 199.1 ~~When~~ As used in this act ~~the following words and terms, unless the context clearly indicates otherwise, shall be construed as having the meanings ascribed to them in this section:~~

~~(a) The word "cosmetology" shall be defined and construed to mean~~ 1. "Cosmetology" means any one or combination of practices generally and usually, ~~heretofore and hereafter,~~ performed by and known as the occupation of beauticians, beauty culturists, beauty operators, cosmeticians, cosmetologists or hairdressers, or of any other person holding herself or himself out as practicing cosmetology by whatever designation and within the meaning of this act and in or upon whatever place or premises; ~~and in particular "cosmetology" shall be defined as and.~~ Cosmetology shall include, but ~~otherwise not be limited thereby to, the following or~~ any one or combination of the following practices, ~~to wit:~~ arranging,

bleaching, cleansing, curling, cutting, coloring, dressing, removing, singeing, styling, waving, or similar work, upon the hair of any person by any means, and with hands or mechanical or electrical apparatus or appliances, ~~provided, nothing.~~ Nothing in this act shall be construed to prohibit the use of any of said devices for the nonpermanent removal of hair from the human body without puncturing the skin, or by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, massaging, cleansing, stimulating, exercising, beautifying, or similar work, the scalp, face, neck, arms, bust, or upper part of the body, or manicuring the nails of any person, exclusive of such of the foregoing practices as come within the scope of the practice of the healing arts as provided by the laws of this state. ~~;~~ i

~~(b) The word Board shall mean~~ 2. "Board" means the State Board of Cosmetology. ~~;~~ i

~~(c) The word "operator" shall mean~~ 3. "Operator" means any person who engages in, follows or performs any of the practices of cosmetology. ~~;~~ i

~~(d) The word "instructor" shall mean~~ 4. "Instructor" means any person who gives instruction in cosmetology or any practices thereof. ~~No person shall be eligible to register for the examination for an instructor's license unless he or she is a high school graduate, or has the equivalent of a high school education as to which the applicant shall qualify by tests to be prescribed by the State Board of Cosmetology and conducted by qualified examiners selected by said Board, and has satisfactorily completed two thousand five hundred (2,500) hours' training prescribed by the Board in a beauty school in this state, or is a high school graduate, or passes satisfactorily the substitute tests as aforesaid, and has completed two thousand (2,000) hours' training prescribed by the Board in a beauty school in this state and has been engaged in the practice of cosmetology for at least two (2) years.~~ i

~~(e) The word "student"~~ 5. "Student" means a person who is enrolled in and attending a beauty school for the purpose of learning the practice of cosmetology. ~~;~~ i

~~(f) The word "apprentice" 6. "Apprentice" means a person who is engaged in learning the practice of cosmetology in a beauty shop;~~

~~(g) The word "manicurist" 7. "Manicurist" or "manicurist/nail technician" means a person who gives manicures, pedicures or applies artificial nails;~~

~~(h) Any 8. "Demonstrator" means a person who is not licensed in this state as an operator or instructor and who demonstrates any cosmetic preparation by applying the same with his or her hands upon the hair or body of another is hereby declared to be a "demonstrator", and; provided, the person shall be required to obtain a license from the board before making any such demonstrations;~~

~~(i) The term "beauty school" shall be construed to mean 9. "Beauty school" means any place or premises where instruction in any or all of the practices of cosmetology is given. Any person, firm, institution or corporation, who shall hold himself or itself out as a school to teach and train, or any person, firm, institution or corporation who shall teach and train any other person or persons in any of the practices of cosmetology is hereby declared to be engaged in operating a beauty school, and shall be subject to the provisions of this act;~~

~~(j) The term "cosmetic studio" is defined as 10. "Cosmetic studio" means any place or premises where demonstrators give demonstrations, without compensation, for the purpose only of advertising and selling cosmetics;~~

~~(k) The term "beauty shop" is defined as being 11. "Beauty shop" means any place or premises where any of the practices of cosmetology are performed, except that said term shall not include a "beauty school" or a "cosmetic studio" as herein defined;~~

~~(l) The term "facial operator" shall mean 12. "Facial operator" means any person who gives facials for compensation;~~

~~(m) The term "public school" includes 13. "Public school" means any state-supported institution conducting a cosmetology program; and~~

14. "Specialty salon" means any place or premises where limited specialized cosmetology services are performed for the public, which includes, but is not limited to, cosmetology-related photography studios, nail or skin care salons, and artificial hair care salons at which wigs, braids, extensions or other such items are arranged or applied to the hair or scalp and related services are provided.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 199.3, is amended to read as follows:

Section 199.3 A. In order to safeguard and protect the health and general welfare of the people of the State of Oklahoma, the State Board of Cosmetology is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions and objects of Sections 199.1 through 199.16 of this title, and to make and enforce all reasonable rules ~~and regulations~~ necessary therefor.

B. In addition to the above general powers the Board shall have the following specific powers and duties:

~~(A)~~ 1. Subject to approval of the State Commissioner of Health, the Board shall adopt and promulgate rules ~~and regulations~~ relating to standards of sanitation, which shall be observed and practiced by all beauty schools, specialty salons and beauty shops. Said rules ~~and regulations~~ may be changed or modified ~~whenever the need therefor exists~~. The Board shall furnish copies of ~~said the~~ rules ~~and regulations~~ to the owner or manager of each beauty school, specialty salon or beauty shop operating in this state, and it shall be the duty of each ~~such~~ owner or manager to post the ~~same~~ rules in a conspicuous place in each of ~~said the~~ establishments-;

~~(B)~~ 2. The Board shall conduct examinations of applicants for certificates of registration as manicurists, operators, facial operators, and instructors six (6) times each year on the second Monday and Tuesday in January, March, May, July, September and November and at such places as may be determined by the Board. Examinations of applicants for all other certificates of registration or licenses shall be given at the times and in the

manner as shall be provided by the Board. Applications for all examinations shall be made on forms to be approved by the Board~~;~~;

~~(C)~~ 3. The Board shall keep a record of its proceedings. It shall keep a record of all applicants for certificates ~~or,~~, licenses and permits, showing the name of the applicant, the name and location of his or her place of occupation or business, if any, and his or her residence address, and whether the applicant was granted or refused a certificate ~~or,~~, license or permit. The records of the Board shall be prima facie evidence of matters contained therein, shall constitute public records, and shall be open to public inspection at all reasonable times~~;~~;

~~(D)~~ 4. The Board shall have authority to issue all certificates of registration, licenses, permits, notices and orders~~;~~;

~~(E)~~ 5. The Board or the duly authorized representatives thereof shall make regular inspections of all beauty schools ~~and,~~, beauty shops and specialty salons licensed to operate in this state, and reports thereof shall be kept and maintained in the office of the Board~~;~~;

~~(F)~~ 6. The Board or the duly authorized representatives thereof shall make investigations and reports on all cases of illegal practice of these provisions~~;~~;

~~(G)~~ 7. The Board or the duly authorized representatives thereof shall have authority to take samples of beauty supplies for the purpose of chemical analysis; provided, that if the owner ~~thereof~~ demands payment for the sample taken, payment ~~therefor~~ at the regular retail price shall be made~~;~~;

~~(H)~~ 8. The Board shall have the power to refuse, revoke, or suspend licenses ~~or,~~, certificates~~,~~, of registration or permits after full hearing, on proof of violation of any of these provisions or the rules ~~and regulations~~ established by the Board, and shall have the power to require the production of such books, records, and papers as it may desire. Before any certificate of registration, license or permit shall be suspended or revoked for any of the causes contained herein, the holder thereof shall have notice, in writing, of the charge or charges against him or her,

and shall, at a day specified in ~~said~~ the notice, which shall be at least five (5) days after the service thereof, be given a public hearing with a full opportunity to produce testimony in his or her behalf. Any person whose license ~~or~~, certificate of registration or permit has been suspended or revoked may, after the expiration of thirty (30) days, make application to the Board for reinstatement thereof. Reinstatement of any such license ~~or~~, certificate of registration or permit shall rest in the sound discretion of said Board.

An appeal may be taken from any action of the Board in refusing, revoking or suspending a license, certificate of registration or permit to the district court of the county of such person's residence; and

~~(I)~~ 9. In any case where a licensee becomes a member of the Armed Forces of the United States, his or her license shall not lapse by reason thereof but shall be considered and held in full force and effect without further payment of license fees during the period of ~~such~~ service in the Armed Forces of the United States and for six (6) months after honorable release therefrom. At any time within six (6) months after honorable release from ~~such~~ the Armed Forces of the United States the licensee may resume practice under his or her license without other or further examination by notifying the Board in writing, ~~and the~~. The period of time in which ~~such~~ the licensee shall have been a member of the Armed Forces of the United States shall not be computed in arriving at the amount of fee or fees due or to become due by such licensee.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 199.4, is amended to read as follows:

Section 199.4 A. The State Board of Cosmetology shall employ an executive ~~secretary~~ director who shall be in charge of the office of ~~said~~ the Board and shall have the same qualifications as a Board member, except that the executive ~~secretary~~ director shall not be actively engaged in the practice of cosmetology while serving as executive ~~secretary~~ director. The executive ~~secretary~~ director shall devote his or her entire time to the duties of the

office and shall receive as compensation an annual salary to be fixed by the Board in a sum payable monthly, and actual and necessary travel expenses as provided in the State Travel Reimbursement Act. Before entering upon the duties of ~~said~~ office, the executive ~~secretary~~ director shall take the oath of office.

B. The executive ~~secretary~~ director shall keep and preserve all books and records pertaining to the Board and shall have authority, in the name of and in behalf of the Board, to issue all licenses, certificates of registration, permits, orders, and notices, and to collect all ~~license~~ fees and penalties provided for in this act, ~~and~~. The executive director shall keep a continuous inventory of all properties, excluding supplies, belonging to the Board, and shall perform such other duties as may be directed by the Board.

C. There is hereby created in the State Treasury a revolving fund for the Board to be designated the Board of Cosmetology Revolving Fund. The fund shall be administered in accordance with the Revolving Fund Procedures Act. The executive ~~secretary~~ director shall make quarterly reports to the Board of all monies collected and the sources from which derived. The executive ~~secretary~~ director shall have authority to approve payrolls and all claims for the State Board of Cosmetology.

D. The executive ~~secretary~~ director, with the approval of the Board, shall designate a bookkeeper, whose duties shall include that of receiving, accounting for, and depositing all funds for the Board.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 199.7, as amended by Section 1, Chapter 184, O.S.L. 1992 (59 O.S. Supp. 1993, Section 199.7), is amended to read as follows:

Section 199.7 A. Each beauty school shall be licensed annually by the State Board of Cosmetology. Application for the first year's license for a beauty school shall be accompanied by a fee of Four Hundred Dollars (\$400.00), which shall be retained by the Board if the application is approved and a license is issued.

The annual renewal license fee for beauty schools shall be One Hundred Twenty-five Dollars (\$125.00).

B. No license or renewal thereof for a beauty school shall be issued unless the owner thereof shall furnish to the Board a good and sufficient surety bond in the principal sum of Two Thousand Dollars (\$2,000.00) for the first instructor and an additional One Thousand Dollars (\$1,000.00) for each additional instructor, executed by a surety company authorized to do business in this state, and conditioned on the faithful performance of the terms and conditions of all contracts entered into between the owner of said beauty school and all persons enrolling therein. The surety bond shall be approved by the Attorney General and filed in the office of the Secretary of State. Suit may be brought on said bond by any person injured by reason of the breach of the conditions thereof.

C. It shall be the duty of the owner or manager of a beauty school to enter into a written contract with all students before permitting students to attend any classes. Contracts shall be made out in triplicate, the original copy to be retained by the school, the duplicate to be given to the student, and the triplicate to be filed with the executive ~~secretary~~ director of the Board.

D. No license for a beauty school shall be issued unless the owner thereof shall present evidence satisfactory to the Board that the school has satisfactory facilities and equipment and has instructors qualified to give a course of study as provided in this act.

E. There shall be included in the curriculum for beauty schools, courses of study in the theory of cosmetology and related theory, studies in manipulative practices, sterilization and sanitation, shop management, and such other related subjects as may be approved by the Board.

The Board shall adopt a curriculum of required courses of instruction in theory and training of one thousand five hundred (1,500) hours in a basic course of cosmetology to be taught in all beauty schools in the state. The basic course shall be designed

to qualify students completing the course to take the examination for an operator's license. Students in vocational, trade and industrial cosmetology classes in public schools shall qualify by completing one thousand (1,000) hours in a basic course of cosmetology and five hundred (500) hours of approved related subjects to be selected from, but not limited to, the following high school courses in a public school: psychology, biology, general science, American history, art, typing I, typing II, business arithmetic, salesmanship, bookkeeping I, bookkeeping II, related mathematics, English II, English III and English IV.

The Board is hereby authorized to adopt an advanced course of five hundred (500) hours of instruction in instructor's training. The training in advanced course shall be designed to qualify persons completing said course to take an examination for an instructor's license. All persons must complete the one thousand five hundred (1,500) hours basic training before being eligible for enrollment in an instructor's course.

F. No person shall be eligible to give instruction in cosmetology unless the person is the holder of a current unrevoked instructor's license issued by the Board. Each beauty school shall employ at least one instructor for the first fifteen students registered therein, and at least one additional instructor shall be employed for each additional group of fifteen students, or major fraction thereof.

G. ~~Notwithstanding anything in this act to the contrary, students who are registered with the Board and who are attending vocational, trade and industrial diversified occupations classes in public schools, shall be entitled to credit for study in the theory of cosmetology taught by the diversified occupations coordinator while receiving practical instruction and training as an apprentice, given by an instructor in a properly licensed and equipped shop.~~ A beauty school may be operated in and as part of an accredited high school.

H. No beauty school owner or beauty shop owner shall charge students for cosmetic materials, supplies, apparatus or machines used by them in practice work, but students shall be required to

furnish their own books and hand instruments of trade. A reasonable charge may be made by a beauty school for clinical work performed by students upon persons who are not students therein. No instructor shall be permitted to do professional or clinical work in a beauty school at any time.

I. No beauty shop shall ever be operated in or as a part of a beauty school.

J. Students shall have an eighth-grade education or the equivalent thereof, shall be at least sixteen (16) years of age, except public and private school students who will be sixteen (16) years of age by November 1, and shall be of good moral character. Credit shall not be given to any person by the Board or by a beauty school for hours spent in attending a beauty school unless the person has registered with the Board as a student prior to the attendance, except that a student who has attended a beauty school out of state may receive credit for such attendance for transfer upon proper certification as provided by rule of the Board. No student shall be credited with more than eight (8) hours' attendance in a beauty school in any one (1) day. No person shall be eligible to take the examination for an operator's license unless such person is at least seventeen (17) years of age or a high school graduate.

K. No student shall be eligible to take the examination for an operator's license without furnishing to the Board the affidavit of the owner of the beauty school that said student has satisfactorily completed one thousand five hundred (1,500) hours' study of the approved basic course, except public and private school students who will complete the one thousand five hundred-hour basic course by the close of the current school year may take the examination next preceding the end of said school year. The owner of each beauty school shall file a report with the Board on or before the fifth day of each month showing the total number of hours of instruction and training received by each student during the preceding calendar month. Students who are eligible to take the examination shall be given an oral examination if requested by their instructor.

L. A person who has held an operator's, manicurist's or instructor's license issued in this state and who has allowed the license to lapse or expire may make application to the Board to retake the examination for the license previously held. Provided however, the applicant shall provide proof of the successful completion of five hundred (500) additional hours in conformity with the new requirements of this act. Provided further, a person who has held an instructor's license issued in this state, and has allowed the same to lapse, but has continuously held a valid operator's license, may renew same by making application to the Board, and upon the payment of the required fee any time prior to July 1, 1950. After said date, all lapsed instructor's licenses must be renewed under the provision of Section 199.10 of this title.

M. No person shall be eligible to register for the examination for an instructor's license unless he or she is a high school graduate, or has the equivalent of a high school education as to which the applicant shall qualify by tests to be prescribed by the State Board of Cosmetology and conducted by qualified examiners selected by said Board, and:

1. Has satisfactorily completed two thousand five hundred (2,500) hours' training prescribed by the Board in a beauty school in this state; or

2. Has completed two thousand (2,000) hours' training prescribed by the Board in a beauty school in this state and has been engaged in the practice of cosmetology for at least two (2) years.

N. Applications to take examinations shall be filed with the Board at least thirty (30) days prior to time of taking an examination. The Board shall have the power to conduct examinations around the state at public locations including, but not limited to vocational-technical campuses.

~~N.~~ O. Each beauty school shall have prominently displayed in a conspicuous place above or to the side of the entrance thereto, a sign bearing the words "BEAUTY SCHOOL", which words shall be in

plain letters at least three (3) inches high and at least one (1) inch wide.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 199.8, is amended to read as follows:

Section 199.8 Each person training as an apprentice shall be required to have the same qualifications as a student for admission into a beauty school, and shall be registered with the State Board of Cosmetology before commencing said training. No apprentice shall engage in any of the practices of cosmetology except under the immediate supervision of a licensed instructor in a beauty shop approved by the board for apprentice training. All apprentices must wear a badge ~~designating~~ which designates them as ~~such, said badge shall be~~ an apprentice and is furnished by the ~~board~~ Board with the apprentice license. Only one apprentice may be registered to receive training in any beauty shop at any one time. ~~One (1) calendar year's training as an apprentice shall be the equivalent of one thousand (1,000) hours~~ Completion of three thousand (3,000) hours of apprentice training in a beauty shop is the equivalent of one thousand five hundred (1,500) hours' training in a cosmetology school and shall entitle said apprentice to take an operator's examination. ~~A calendar year shall consist of fifty (50) weeks of forty (40) hours each.~~

SECTION 6. AMENDATORY 59 O.S. 1991, Section 199.9, is amended to read as follows:

Section 199.9 A. The State Board of Cosmetology shall not issue a license for a beauty shop or specialty salon until an inspection has been made of ~~said~~ the shop or specialty salon and equipment, including the sanitary facilities thereof. Temporary approval pending inspection may be made upon sworn affidavit by the license applicant that all requirements have been met. No license shall be issued for a beauty shop to be operated in a private home or residence unless said shop is located in a room or rooms not used or occupied for residential purposes.

B. Except as otherwise provided in Sections 199.1 through 199.17 of this title, it shall be unlawful for any person to practice cosmetology in any place other than a licensed

barbershop, or a beauty shop, specialty salon or beauty school licensed by the Board. A licensed manicurist may practice in any licensed barbershop, and in an emergency such as illness, invalidism, or death, a licensed operator may perform cosmetology services for a person by appointment in a place other than a licensed beauty shop or beauty school.

~~B.~~ C. A person licensed as an operator may perform cosmetology services in a barbershop. A person licensed as a barber may perform barbering services in a beauty shop. Any shop which provides both cosmetology and barbering services must obtain a license from both the State Board of Cosmetology and the State ~~Board of Barber Examiners~~ Department of Health.

SECTION 7. This act shall become effective September 1, 1994.

44-2-1861 JY