

ENROLLED HOUSE
BILL NO. 2981

By: Bastin of the House

and

Herbert of the Senate

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 139, 147, as amended by Section 11, Chapter 150, O.S.L. 1993, 148, as amended by Section 12, Chapter 150, O.S.L. 1993, 149 and 155 (59 O.S. Supp. 1995, Sections 147 and 148), which relate to the Board of Podiatric Medical Examiners; providing for organization; providing time for election of officers; providing for duties; providing for meetings; providing certain compliance; providing for degree of proof; specifying penalties; modifying and removing certain grounds for penalties; providing for judicial review; requiring bonding; providing for administrative penalties; providing for establishment of certain guidelines; providing for confidential letters for certain violations; removing outdated language relating to administrative procedures; clarifying language; modifying and adding to powers and duties of the Board of Podiatric Medical Examiners; creating the Oklahoma Barbers Regulation Act; exempting certain persons; defining terms; creating Board of Barber Examiners; providing for appointment of members, qualifications, transition for State Barber Advisory Board members, terms of office, conflict of interest, vacancy, provisional member, removal for cause, meetings, officers, quorum, duties of officers, compliance with certain laws, liability of members, and reimbursement for certain expenses; providing for powers, duties, and promulgation of rules; stating specific powers and duties; authorizing appointment of Advisory Committee, powers, membership, and certain reimbursement; providing for employment of executive director and stating responsibilities; providing for form for application for certain certificates; authorizing Board to set nonrefundable application fees; providing for written and oral examination and reimbursement of related costs; providing for issuance of certain certificates; making certificates prima facie evidence of certain rights; providing for prorating of certain fee; requiring annual application and payment of fee; requiring application be filed by certain date and revocation of certificate if not filed; providing for continuation of certificate for certain persons; making certificates nontransferable and requiring posting; stating requirements for admittance to examination; requiring certain

evidence of eligibility; requiring personal appearance before Board; providing for retaking of examination and related training; requiring examination demonstrate certain skills and knowledge; requiring barbershop to be licensed; requiring inspection of barbershop before license is issued; requiring licenses of certain shop in shop barbershop; restricting operation of barbershops in residence; making certain practice unlawful and prohibiting certain acts; authorizing certain practice under certain conditions; granting Board certain inspection authority; stating penalty for certain violation and providing for disciplinary action; providing for special license and related qualifications, examination and procedures; providing for registration of graduate barber and related qualifications and authorizing certain disciplinary action by Board; providing for registration of barber apprentice and related qualifications; requiring application to Board before operating barber schools; making schools subject to regulation by Board; stating certain curriculum and hour requirements; providing for fees; providing for disciplinary actions by Board and related procedures for investigation, notice, emergency measures, service of instruments, administrative hearings and hearing officers, rehearing, judicial review, and appointment of special counsel for certain proceedings; requiring notification of enforcement action and providing for written response; stating grounds for imposing certain penalties; stating criminal, civil, and administrative penalties; requiring payment of interest and certain costs and fees; providing for action by Attorney General and district attorneys; providing for injunctive relief; authorizing Board to establish certain guidelines by rule; creating revolving fund for certain purposes; providing for transfer of certain funds, property, records, personnel, and outstanding financial obligations and encumbrances; deeming certain rules to remain in effect until certain date and action; making certain documents valid under certain terms and conditions; transferring certain rights, obligations, and remedies; construing act; repealing 59 O.S. 1991, Sections 61.1 and 61.2, as amended by Sections 1 and 2, Chapter 87, O.S.L. 1992, 61.3, 61.4, 61.5 and 61.6, as amended by Section 3, Chapter 87, O.S.L. 1992 (59 O.S. Supp. 1995, Sections 61.1, 61.2 and 61.6), which relate to regulation of barbers by State Board of Health; repealing 59 O.S. 1991, Section 150, which relates to stenographic report of revocation proceedings; providing for codification; and providing an effective date.

SECTION 1. AMENDATORY 59 O.S. 1991, Section 139, is amended to read as follows:

Section 139. A. The Board of Podiatric Medical Examiners shall hold a regular meeting each year in September for transacting such business as properly comes before it. Upon call by any two of its members, it may hold special meetings at any time for transacting any business. It may meet at such times and places in this state as are agreeable to it. It may adjourn any meeting as it determines and meet again at the time or times it appoints. As it determines, it shall organize annually at the last regularly scheduled meeting of the Board before the beginning of the next fiscal year by electing from among its members a president, a vice-president, and a secretary-treasurer. In addition to the duties usually incumbent upon his or her office, each such officer shall perform at all times all duties authorized as to his or her office by the applicable laws and the rules and regulations. Each shall serve in the office to which elected until the close of the September meeting. The term of office of each officer shall be for the following his or her election fiscal year and until his or her a successor is elected, unless the office be vacated sooner by the Board or by removal from membership upon the Board by the Governor; provided that, any such officer may resign at any time and qualified. The duties of each officer shall be prescribed in the rules of the Board.

B. The Board may hold such regularly scheduled meetings, special meetings, emergency meetings, or continued or reconvened meetings as found by the Board to be expedient or necessary. The president, and in his or her absence the vice-president, shall preside at all meetings. A majority of the Board shall constitute a quorum and have power to act for the transaction of business.

C. The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, and the Administrative Procedures Act.

D. All members of the Board and such employees as determined by the Board shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

E. The responsibilities and rights of any member or employee of the Board who acts within the scope of Board duties or employment shall be governed by the Governmental Tort Claims Act.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 147, as amended by Section 11, Chapter 150, O.S.L. 1993 (59 O.S. Supp. 1995, Section 147), is amended to read as follows:

Section 147. A. The Board of Podiatric Medical Examiners is authorized, after notice and opportunity for a hearing, pursuant to Article II of the Administrative Procedures Act, to issue an order suspending, imposing one or more of the following penalties whenever the Board finds, by clear and convincing evidence, that a podiatric physician has committed any of the acts or occurrences set forth in Section 148 of this title:

1. Disapproval of an application for a renewal license;

2. Suspension of a license issued by the Board for a maximum period not exceeding of three (3) years, any;

3. Revocation of a license to practice podiatric medicine heretofore issued and remaining effective under the provisions of this act or hereafter issued under the applicable laws for any one or more of the grounds or causes provided for revocation of such a license, as specified in Section 148 of this title issued by the Board;

4. An administrative penalty not to exceed One Thousand Dollars (\$1,000.00) for each count or separate offense;

5. A censure or reprimand;

6. Placement on probation for a period of time and under such terms and conditions as deemed appropriate by the Board;

7. Restriction of the practice of a podiatric physician under such terms and conditions as deemed appropriate by the Board; and

8. Payment of costs associated with a disciplinary proceeding.

B. The Board may, by rule, establish guidelines for the disposition of disciplinary cases involving specific types of violations. The guidelines may include:

1. Minimum and maximum administrative penalties;

2. Periods of probation or supervision; and

3. Conditions of probation, and conditions for the reinstatement of a license.

C. The Board is authorized to issue a confidential letter of concern to a podiatric physician when, though evidence does not warrant formal proceedings, the Board has noted indications of possible errant conduct by the podiatric physician that could lead to serious consequences and formal action.

D. A podiatric physician against whom a penalty is imposed by an order of the Board pursuant to the provisions of this section shall have the right to seek a judicial review of such order pursuant to Article II of the Administrative Procedures Act.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 148, as amended by Section 12, Chapter 150, O.S.L. 1993 (59 O.S. Supp. 1995, Section 148), is amended to read as follows:

Section 148. A. ~~The following acts or occurrences by a podiatric physician shall constitute grounds for which the penalties specified in Section 147 of this title may be imposed by order of the Board of Podiatric Medical Examiners is authorized, after notice and opportunity for a hearing, pursuant to Article II of the Administrative Procedures Act, to issue an order revoking any license to practice podiatric medicine heretofore issued and remaining effective under the provisions of this act or hereafter issued under the applicable laws for any one or more of the following causes:~~

~~1. The willful and fraudulent~~ Willfully making by the licensee to the Board of any a false and material statement to the Board, either before or after the issuance of ~~the~~ a license;

~~2. Final conviction of the licensee in any court of any crime Pleading guilty or nolo contendere to, or being convicted of, a felony, a misdemeanor involving moral turpitude, or of any felony a violation of federal or state controlled dangerous substances laws;~~

~~3. The use by the licensee of Using alcohol, any stimulant, any drug, or any other substance which impairs intellect, judgment, or physical ability to such an extent as to incapacitate renders the licensee to such a degree that he is unable to perform his professional duties practice podiatric medicine with safety and benefit to the public;~~

~~4. Mental or physical weakness or inability which incapacitates the licensee Being mentally or physically incapacitated to such a degree that he the licensee is unable to perform his professional duties practice podiatric medicine with safety and benefit to the public;~~

~~5. Any advertising Making any advertisement, statement, or representation made by the licensee, which is untrue or improbable and calculated by the licensee to deceive, defraud or mislead the public or patients, actual or prospective, or to mislead both;~~

~~6. Practicing fraud by omission or commission by the licensee in the examination given by the Board, or in obtaining a license, or in obtaining renewal or reinstatement of a license;~~

~~7. Failure or neglect by the licensee~~ Failing to pay or cause to be paid promptly when due any license fee ~~or renewal fee~~ required by the ~~applicable laws~~ Podiatric Medicine Practice Act or the rules of the Board, ~~as the case may be;~~

~~8. Willful failure or neglect by the licensee to employ antiseptic methods in his practice, or to do reasonable sterilizing as needed for protecting the patient~~ Practicing podiatric medicine in an unsafe or unsanitary manner or place;

~~9. Performing, or attempting to perform, any surgery as to for which he~~ the licensee has not had reasonable training;

~~10. Gross and willful neglect of duty as a member or officer of the Board;~~

~~11. Any act or omission by the licensee made unlawful by the applicable laws, regardless of whether the licensee shall have been convicted thereof in any court;~~

~~12. Final conviction of the licensee in any court of any violation of the applicable laws;~~

~~13. Advertising, or representing in any other way, by the licensee which is grossly untrue or improbable;~~

~~14. Grossly dishonorable conduct on the part of the licensee;~~

~~15. Dividing by the licensee with any other person or with any partnership, association, trust, firm, corporation, or firm, in any proportion, of other legal entity any fee, gift, or other compensation, or other award for services as a podiatric physician, except with:~~

~~a. another licensed podiatric physician or with,~~

~~b. an applicant for a license who is observing or assisting the licensee as an intern, preceptee or resident, as authorized by the rules of the Board, or with~~

~~c. a practitioner of a another branch of the healing art arts who is duly licensed under the laws of this state or some other another state or, district or territory under the jurisdiction of the United States of America,~~

~~who has actually shares in the service or in the responsibility attending the service provided services, directly or indirectly, to the patient from or for whom the fee or other compensation is received or at the time of the service services is an active associate of the licensee in the lawful practice of podiatric medicine in this state; and~~

~~16. Any act or omission on the part of the licensee which is contrary to or in derogation of 12. Violating or attempting to violate the provisions of the Podiatric Medicine Practice Act, the Code of Ethics; and~~

~~17. Any willful violation of or the rules of the Board.~~

~~B. Proof before the Board to its satisfaction of commitment under the laws of this or any other such state, district, or territory of a licensee to any Commitment of a licensee to an institution for the insane or feeble-minded, mentally ill shall constitute prima facie proof to the Board of mental weakness or inability which incapacitates evidence that the licensee is mentally incapacitated to such a degree that he the licensee is unable to perform his professional duties practice podiatric medicine with safety and benefit to the public.~~

SECTION 4. AMENDATORY 59 O.S. 1991, Section 149, is amended to read as follows:

Section 149. ~~Charge or charges for suspension or revocation of license shall be in writing and filed with the secretary-treasurer~~

A. Any person may file a written and signed complaint with the

Board of Podiatric Medical Examiners, alleging that a podiatric physician has violated the provisions of the Podiatric Medicine Practice Act, the Code of Ethics, or the rules of the Board, and may be made by anyone; and no license shall be suspended or revoked until (1) a copy of the charge or charges, shall have been sent to the licensee by registered mail to the last post office address of the licensee appearing upon the license record of the Board or delivered to the licensee in person, and (2) the licensee is notified in similar way of the time and place when and where the Board will commence its hearing of the charge or charges, and (3) the Board publicly hears the charge or charges and allows the licensee reasonable opportunity to appear in person or by counsel or in both such ways and to present evidence in refutation of the charge or charges. Such notice shall be issued by any member of the Board and shall be so given to the licensee at least twenty (20) days before commencement of the hearing. Whether or not the licensee appears, the Board may proceed and determine the truthfulness or untruthfulness of the charge or charges; and if, upon such hearing, the Board shall determine the charge or charges to be true wholly or in substantial part, and if under the applicable laws the license may, and in the opinion of the Board should, be suspended or revoked upon the evidence adduced, the Board shall determine which, and if the determination be for suspension shall determine also the duration of the suspension, and as it determines, the Board by its written order shall revoke the license or suspend it for a specified time, not to exceed three (3) years, or adjudge that the evidence presented upon the hearing is insufficient to justify suspension or revocation. If the Board shall determine that the charge or charges themselves if true are insufficient to justify suspension or revocation, it shall so order and withhold further proceeding thereon except to dismiss the same. The Board may continue the hearing from time to time as it determines. Suspension shall, during the period of the suspension, and revocation shall, permanently, take from the licensee all rights and privileges acquired by the license the facts upon which the allegations are based. Each complaint received by the Board shall be investigated in a manner to be prescribed in the rules of the Board.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 155, is amended to read as follows:

Section 155. ~~Said The Board is hereby authorized to hold and conduct of Podiatric Medical Examiners shall:~~

1. Conduct investigations and hearings and determine any charge or charges for revocation or suspension of any license issued by said of complaints against podiatric physicians filed with the Board, pursuant to Section 149 of this title; and for

2. Initiate and conduct individual proceedings, pursuant to Article II of the Administrative Procedures Act, against podiatric physicians alleged to have violated the Podiatric Medicine Practice Act, the Code of Ethics, or the rules of the Board. For such purposes said the Board, or any member thereof, is hereby empowered to issue subpoenas, compel the attendance of witnesses, and administer oaths and affirmations. Subpoenas authorized by this act section may be signed and issued by any member of said the Board, and shall be served, and return of service thereof made, in the same manner as a subpoena is served out of from a court of record in this state and as return in such case is made. If a person fails and refuses to attend in obedience to such subpoena, or refuses to be sworn or examined or answer any question propounded by any member of said the Board or any attorney or licensee upon permission from said

~~the Board, such person shall be guilty of a misdemeanor and punishable as such, upon conviction. All resolutions, findings, decisions and orders of said Board, and minutes of all its meetings, shall be reduced to writing and recorded in a record to be kept by the secretary-treasurer of said Board for that purpose. Said secretary-treasurer shall keep complete records of all monies received by him as secretary-treasurer.~~

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. This section and sections 7 through 25 of this act shall be known and may be cited as the "Oklahoma Barbers Regulation Act".

B. The provisions of the Oklahoma Barbers Regulation Act shall not apply to persons licensed, registered, or permitted by the State Board of Cosmetology pursuant to Sections 199.1 through 199.15 of Title 59 of the Oklahoma Statutes provided such persons do not engage in the practice of barbering.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Barbers Regulation Act:

1. "Barber" means any person who engages in the practice of barbering and is licensed pursuant to the provisions of the Oklahoma Barbers Regulation Act;

2. "Barbering" or "practice of barbering" means any one or any combination of the following practices, when done upon the upper part of the human body for cosmetic purposes for payment, either directly or indirectly, and for the general public:

- a. shaving or trimming the beard or cutting the hair,
- b. giving facial or scalp massages or treatment with oils, creams, lotions or other preparations, either by hand or mechanical appliances,
- c. singeing, shampooing or dyeing the hair or applying hair tonics,
- d. applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or upper part of the body,
- e. removing superfluous hair from the face, neck or upper part of the body, or
- f. giving permanents;

3. "Barber apprentice" means any person sixteen (16) years of age or older whose principal occupation is the learning of the barber trade in this state, under the direct supervision of a barber who has at least two (2) years of practical experience as a barber;

4. "Board" means the Board of Barber Examiners;

5. "Barber school or college" means an establishment operated for the purpose of teaching barbering;

6. "Barbershop" means an establishment or place of business licensed by the Board where one or more persons are engaged in the practice of barbering. The term "barbershop" does not include barber schools or colleges;

7. "Contagious communicable disease or condition" means those infectious diseases which are transmitted from person to person by contact with blood or body secretions and may pose an occupational risk to barbers, barber apprentices, graduate barbers or instructors;

8. "Direct supervision" means the supervision, by the actual presence in the shop, of a barber while barber service is being performed by a barber apprentice or graduate barber;

9. "Graduate barber" means any person sixteen (16) years of age or older who has completed the barber curriculum at an Oklahoma licensed barber college, whose application to take the barber examination has been accepted, and who is under the direct supervision of a barber who has at least two (2) years of practical experience as a barber;

10. "Instructor" means a person licensed to teach barbering;

11. "Instructor student" means a barber enrolled in a barber college or barber school who is learning the teaching of barbering;

12. "Potentially infectious body fluids" means blood or blood products, any fluid visibly contaminated with blood, and all body fluids; and

13. "Sanitizers" means a disinfectant which inhibits, neutralizes or destroys all bacteria, viruses, parasites and other organisms. A sanitizer shall be a germicide, fungicide and virucide.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Effective September 1, 1996, the Board of Barber Examiners is hereby created to continue until July 1, 2002, in accordance with the provisions of the Oklahoma Sunset Law. The Board shall regulate the practice of barbering in this state in accordance with the provisions of the Oklahoma Barbers Regulation Act. The Board, appointed by the Governor, shall be composed of:

1. Four barber members; and

2. One lay member representing the public.

B. Except as otherwise provided by subsection D of this section, each barber member of the Board shall:

1. Be a legal resident of this state;

2. Have practiced barbering continuously in this state during the five (5) years immediately preceding appointment to the Board;

3. Be free of pending disciplinary action or active investigation by the Board and, for the initial Board, be free of pending disciplinary action or active investigation by the State Barber Advisory Board or the State Department of Health pursuant to 59 O.S. 1991, Sections 61.1 through 61.6; and

4. Be a person of recognized professional ability, integrity and good reputation.

C. The lay member of the Board shall:

1. Be a legal resident of this state; and

2. Not be a barber or be related within the third degree of consanguinity or affinity to a barber.

D. 1. The State Barber Advisory Board created pursuant to 59 O.S. 1991, Section 61.4 shall remain in effect as the initial Board of Barber Examiners and shall implement the powers and duties assigned to the Board pursuant to the Oklahoma Barbers Regulation Act. The current members of the State Barber Advisory Board shall remain on the Board of Barber Examiners until the expiration of their individual terms of office or until such offices are vacated. Future appointments to the Board of Barber Examiners shall be made according to the provisions of this section.

2. For future appointments to the Board, the term of office of a barber member of the Board shall be five (5) years, ending on July 1 of the fifth year. Provided, members shall serve until a successor is appointed and qualified.

3. The lay member of the Board shall serve a term coterminous with that of the Governor.

E. No member of the Board shall be interested in the sale or selling of barber equipment or merchandise connected with the barber

business, or connected in any way with a barber college, or take part in promoting the employment of any barber.

F. 1. An appointment shall be made by the Governor within ninety (90) days after a vacancy has occurred due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term, if not filled within ninety (90) days following such vacancy, the Board may appoint a provisional member to serve in the interim until the Governor acts.

2. A member may be reappointed for one additional term.

3. In all future appointments to the Board, the Governor shall recognize the geographic diversity of the state and appoint members representing each quadrant of the state.

G. A member may be removed from the Board by the Governor for cause which shall include, but not be limited to:

1. Ceasing to be qualified;

2. Being found guilty by a court of competent jurisdiction of a felony or any offense involving moral turpitude;

3. Being found guilty, through due process, of malfeasance, misfeasance or nonfeasance in relation to his Board duties;

4. Being found mentally incompetent by a court of competent jurisdiction; or

5. Being found in violation of any provision of the Oklahoma Barbers Regulation Act.

H. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall select, at its first meeting, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing year shall be elected. Special meetings may be called by the chair or by three members of the Board by delivery of written notice to each member of the Board. A majority of the Board present at the meeting shall constitute a quorum of the Board.

2. The chair or the vice-chair shall preside at meetings of the Board, arrange the Board agenda, sign Board orders and other required documents, coordinate Board activities and perform such other duties pursuant to the Oklahoma Barbers Regulation Act as may be prescribed by the Board.

3. The vice-chair shall perform the duties of the chair during the chair's absence or disability and shall perform such other duties as may be prescribed by the Board pursuant to the Oklahoma Barbers Regulation Act.

I. The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, and the Administrative Procedures Act and such other general laws as are required for other state agencies.

J. The liability of any member or employee of the Board acting within the scope of Board duties or employment shall be governed by the Governmental Tort Claims Act.

K. Members of the Board shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties pursuant to the Oklahoma Barbers Regulation Act in accordance with the State Travel Reimbursement Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In order to safeguard and protect the health and general welfare of the people of this state, the Board of Barber Examiners is hereby vested with the powers and duties necessary and proper to

enable it to fully and effectively carry out the provisions and objectives of the Oklahoma Barbers Regulation Act, and shall promulgate all reasonable rules necessary therefor.

B. In addition, the Board shall have the specific power and duty to:

1. Appoint and fix compensation for an executive director;
2. Adopt a seal;
3. Lease office space for the purpose of operating and maintaining a state office, and pay the rent thereon; provided, however, such state office shall not be located in or directly adjacent to a barbershop;
4. Purchase office furniture, equipment and supplies;
5. Employ such office personnel as may be necessary, and fix and pay their salaries or wages;
6. Employ one or more investigators, as needed, for the sole purpose of investigating written complaints regarding the conduct of barbers, and fix and pay their salaries or wages;
7. Establish a system of training for all personnel who render review and inspection services in order to assure uniform statewide application of law and rules;
8. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, industries, other states and the federal government, and other persons;
9. Collect and disseminate information and engage in education activities relating to the provisions of the Oklahoma Barbers Regulation Act;
10. Enter into interagency agreements;
11. Adopt and enforce standards governing the professional conduct of barbers, consistent with the provisions of the Oklahoma Barbers Regulation Act, for the purpose of establishing and maintaining a high standard of honesty, dignity, integrity and proficiency in the profession;
12. Establish minimum standards for education requirements for barber apprentices, graduate barbers and barber instructors;
13. Make such expenditures as may be necessary in the performance of its duties;
14. Keep a record of its proceedings; and a record of all applicants for registrations, licenses, special licenses and permits, showing the applicant's name, the name and location of such applicant's place of occupation or business, if any, and residence address, and whether the applicant was granted or refused a registration, 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;
15. Conduct examinations of applicants for certificates for licenses, special licenses, permits, or registrations issued pursuant to the Oklahoma Barbers Regulation Act. Examinations of applicants for such registrations, permits, or licenses shall be given at the locations, times and in the manner as shall be provided by the Board;
16. Issue all registrations, licenses, special licenses, permits, notices and orders issued pursuant to the Oklahoma Barbers Regulation Act;
17. Charge and receive fees pursuant to fee schedules promulgated by the Board pursuant to the provisions of the Oklahoma Barbers Regulation Act;
18. Require the establishment and maintenance of records and reports;

19. Make regular inspections of all barber colleges and barbershops operating in this state, and reports thereof shall be kept and maintained in the office of the Board;

20. Enforce the provisions of the Oklahoma Barbers Regulation Act and rules promulgated thereunder and orders, permits and licenses issued pursuant thereto;

21. Investigate or cause to be investigated alleged violations of the Oklahoma Barbers Regulation Act, rules promulgated thereto, or registrations, permits, licenses or orders issued pursuant thereto;

22. Conduct hearings and issue subpoenas according to the Administrative Procedures Act, the Oklahoma Barbers Regulation Act and rules promulgated pursuant to the Oklahoma Barbers Regulation Act, and file contempt proceedings against any person disobeying or refusing to comply with such subpoena;

23. Order or subpoena the attendance of witnesses, the inspection of records and premises and the production of relevant books and papers for the investigation of matters that may come before the Board;

24. Access any premises at any reasonable time upon presentation of identification for purposes of administering the Oklahoma Barbers Regulation Act, and the right to apply to and obtain from a judge of the district court, a warrant as necessary to enforce such access;

25. Determine and assess administrative penalties, take or request civil action, request criminal prosecution or take other administrative or civil action as specifically authorized by the Oklahoma Barbers Regulation Act or other law against any person or entity who has violated any of the provisions of the Oklahoma Barbers Regulation Act, rules promulgated thereunder, or any registration, permit, license or order issued pursuant thereto;

26. Refuse to issue or renew, modify, revoke, or suspend licenses, registrations or permits after any full hearing as required by the Administrative Procedures Act, on proof of violation of any of these provisions or the rules established by the Board, pursuant to the provisions of the Oklahoma Barbers Regulation Act; and

27. Perform such other duties, and exercise such other powers as the provisions and enforcement of the Oklahoma Barbers Regulation Act may require.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Barber Examiners may appoint the Advisory Committee, comprised of three barbers and one lay member representing the public who shall advise and assist the Board in:

1. Investigating the qualifications of applicants for any original certificate issued pursuant to the Oklahoma Barbers Regulation Act in this state;

2. Investigating written complaints regarding barbers, barbershops, apprentices, graduate barbers, barber instructors, barber colleges and persons engaging in the practice of barbering without a license, including alleged violations of the Oklahoma Barbers Regulation Act or of the rules of the Board; and

3. Such other matters as the Board shall delegate to them.

B. The Advisory Committee shall be selected from a list of ten barbers currently licensed pursuant to the laws of this state and three lay persons submitted by any barber association or society in this state or any unaffiliated barber desiring to submit a list.

The term of service for members of the Advisory Committee shall be determined by the Board.

C. Members of the Advisory Committee shall not receive any compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties pursuant to the Oklahoma Barbers Regulation Act in accordance with the State Travel Reimbursement Act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.6 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Barber Examiners shall employ an executive director who shall be in charge of the office of the Board. The executive director shall not be actively engaged in the practice of barbering while serving as executive director. The executive director shall devote full time to the duties of the office and shall receive as compensation an annual salary to be fixed by the Board pursuant to law in a sum payable monthly.

B. The executive director shall:

1. Keep and preserve all books and records pertaining to the Board and such other records as provided for in the Oklahoma Barbers Regulation Act;

2. Keep a record of all proceedings of the Board and certify to actions of the Board;

3. Receive and care for all monies received by the Board and cause the same to be deposited in the Board of Barber Examiners Revolving Fund and disbursed upon orders of the Board. Provided, the executive director shall have authority to approve payrolls and all claims for the Board;

4. Make quarterly reports to the Board of all monies collected and the sources from which derived;

5. Submit, at the first regular meeting of the Board after the end of each fiscal year, a full itemized report of the receipts and disbursements for the prior fiscal year, showing the amount of funds on hand;

6. Keep a continuous inventory of all properties, excluding supplies, belonging to the Board; and

7. Perform such other duties as may be directed by the Board.

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

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Applications for a certificate for:

1. A license to practice barbering;

2. A registration as a barber apprentice;

3. A license to operate a barbershop;

4. A registration as a graduate barber;

5. A permit to operate a barber college; or

6. A special license to practice as a barber instructor, shall be on a form prescribed and furnished by the Board of Barber Examiners. The form shall contain statements made under oath, showing the applicant's education and a detailed summary of any barbering experience and shall include the names and complete addresses of references, none of which may be members of the Board.

B. The application fees for a certificate for licenses, registrations, permits and special licenses shall be set by the Board pursuant to the Oklahoma Barbers Regulation Act. Should the Board deny the application for any certificate, the fee shall be retained by the Board as application costs.

C. The Board may require, pursuant to the Oklahoma Barbers Regulation Act, any applicant for a certificate to take a written or oral examination prior to issuance of a certificate for any license, registration, permit or special license authorized by the Oklahoma Barbers Regulation Act. The applicant for the examination shall reimburse the Board for the actual cost of examination, documents and grading. The Board shall advise the applicant of these requirements and the required amount shall be paid by the applicant in advance of any examination.

D. The Board shall issue to any applicant who, in the opinion of the Board, has met the qualifications required by the Oklahoma Barbers Regulation Act and rules promulgated thereto a certificate of licensure, registration, permit or special licensure, as applicable, giving the applicant proper authority to practice in this state. Each license, registration, permit or special license shall carry the proper designations and shall give the full name and applicable number of the applicant and shall be signed by the Board, or as otherwise required by the Board, under seal of the Board.

E. The certificates shall be prima facie evidence that the person named thereon is entitled to all rights, privileges and responsibilities required by the Oklahoma Barbers Regulation Act and rules promulgated thereto while said certificate remains effective.

F. 1. Except as provided by this paragraph, all certificates issued pursuant to the provisions of the Oklahoma Barbers Regulation Act shall be issued for a period of one (1) year. The expiration date of the license shall be June 30 of each year. A graduate barber license shall be valid for four (4) months from the date of issuance or until the graduate barber successfully completes the barber examination if less than four (4) months from the date of issuance.

2. If a certificate is issued for a period of less than one (1) year, the certificate fee shall be prorated to the nearest dollar and month.

3. Each Board certificate holder in this state shall annually make application for renewal of the certificate. The fee required by the Oklahoma Barbers Regulation Act shall accompany the application.

4. All applications for renewal of a certificate shall be filed with the executive director of the Board on or before July 1 of each calendar year; otherwise such certificates shall be automatically revoked and the holder thereof not entitled to practice in this state until the certificate has been renewed and any required fees and penalties paid.

5. In any case where a certificate holder becomes a member of the armed forces of the United States, the certificate shall not lapse by reason thereof but shall be considered and held in full force and effect without further payment of fees during the period of 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 the armed forces of the United States, the certificate holder may resume practice by notifying the Board in writing.

6. All certificates shall be nontransferable.

G. Except for barber colleges, every holder of a certificate issued pursuant to the provisions of the Oklahoma Barbers Regulation Act shall display such certificate in a conspicuous place adjacent to or near the work place of the certificate holder.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Barber Examiners shall admit any applicant to the regular examination for a license to practice barbering who has:

1. Filed a written application with the Board pursuant to the Oklahoma Barbers Regulation Act;
2. Paid the required fees as required by the Oklahoma Barbers Regulation Act; and
3. Otherwise complied with eligibility requirements and the rules of the Board applicable to the applicant.

B. The applicant shall make an application for such examinations, verified by oath, upon forms provided by said Board, and transmit therewith an examination fee required pursuant to the provisions of the Oklahoma Barbers Regulation Act.

C. To be eligible for examination an applicant must present satisfactory evidence that the applicant:

1. Is of good moral character;
2. Is at least eighteen (18) years of age;
3. Has not been convicted of any crime involving moral turpitude or of any felony; and
4. Is free from contagious, infectious or communicable disease.

D. All applicants for examination must appear personally before the Board at the next regular meeting thereof after the filing of their applications with the executive director.

E. 1. Any barber apprentice or a student who fails to pass the examination conducted by the Board must continue to practice as an apprentice, or to study for an additional six (6) months before such apprentice or student is again entitled to take the examination for a certificate to practice barbering.

2. Applicants who have practiced barbering for a period of two (2) years who fail to pass the examination may retake said examination for a second time.

F. 1. The examination by the Board of Barber Examiners shall consist of practical demonstrations and written or oral tests as to such subjects directly relating to the practice of barbering as may be designated by the Board. The practical demonstrations and written or oral tests shall demonstrate to the Board that the applicant is possessed of requisite skill in the practice of barbering to properly perform the duties thereof including, but not limited to, a knowledge of and ability to use aseptic and antiseptic preparations and tools ordinarily used in practicing barbering and is possessed of a sufficient knowledge concerning the common diseases of the face, head and skin to avoid the aggravation or spreading thereof in the practice of barbering.

2. Upon passage of the examination, demonstration of such requisite skills as required by this subsection, and payment of the required fees, a license to practice barbering within this state shall be issued to the applicant by the Board.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Barber Examiners shall provide for the issuance of a license to operate a barbershop.

B. The Board shall not issue a license to operate a barbershop until an inspection has been made of the shop and equipment, including, but not limited to, the sanitary facilities thereof. Temporary approval pending inspection may be made upon sworn affidavit by the applicant that all requirements have been met. No license shall be issued to operate a barbershop in a private home or residence unless said shop is located in a room or rooms not used or occupied for residential purposes.

C. Except as otherwise provided in the Oklahoma Barbers Regulation Act, it shall be unlawful for any person to practice barbering in any place other than a licensed barbershop, or a beauty shop, or barber school licensed by the Board. The Board may promulgate rules providing exceptions pursuant to this subsection.

D. Except as otherwise provided by the Oklahoma Barbers Regulation Act:

1. No barbershop shall be operated in this state unless at least one licensed barber is in charge thereof; and

2. No barbershop shall be allowed to employ more than one barber apprentice at the same time.

E. A person licensed as a barber may practice barbering in a beauty shop. Any shop which provides both cosmetology and barbering services must obtain a license to operate a barbershop from both the State Board of Cosmetology and the Board of Barber Examiners.

F. The license to operate a barbershop shall be displayed in a conspicuous place near the entrance to the barbershop or licensed shop offering barbering services.

G. 1. The Board shall have authority to and shall prescribe sanitary requirements for barbershops, and licensed shops offering barbering services.

2. In addition to any administrative penalties determined by the Board, any person operating a barbershop or other licensed shop offering barbering services who knowingly permits said sanitary requirements to be violated, and any person, whether or not a certificate holder, violating said sanitary requirements shall be deemed guilty of a misdemeanor and, upon conviction thereof, be punished by a fine of not more than Four Hundred Dollars (\$400.00).

3. The violation of any sanitary requirements by a certificate holder shall also constitute grounds for the modification, nonrenewal, suspension or revocation of the certificate by the Board.

H. Any licensed barber who leases space in a licensed barbershop and engages in the practice of barbering independent and free from supervision of the owner or operator of the licensed barbershop shall make application for and receive a barbershop license from the Board of Barber Examiners separate and apart from the barbershop license of the owner or operator of the licensed barbershop.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.10 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Barber Examiners shall admit any applicant to the regular examination for a special license to practice as a barber instructor who:

1. Is at least twenty-four (24) years of age;

2. Is a high school graduate, or equivalent;

3. Has practiced as a barber for a period of at least five (5) years in this state, prior to application; and

4. Has successfully completed a barber instructors course of not less than five hundred (500) hours in a barber college offering such course which has been recognized by the Board as a properly permitted and conducted barber college.

B. An applicant shall make application for taking an examination and state that such applicant is possessed of good moral character and shall verify the statement by oath upon forms provided by the Board, accompanied by the fees required by the Oklahoma Barbers Regulation Act.

C. A barber applicant for a special license to practice as a barber instructor who fails to pass the examination conducted by the

Board must study the barber instructors course for an additional fifty (50) hours in a barber school before such applicant is again entitled to take the examination for a special license to practice as a barber instructor.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.11 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board of Barber Examiners shall issue a certificate of registration as a graduate barber to any person applying therefor who submits to the Board satisfactory evidence that such applicant:

1. Is of good moral character;
2. Is sixteen (16) years of age or older;
3. Has completed the barber curriculum at an Oklahoma licensed barber college;
4. Has made application to take the barber examination and has been accepted; and
5. Is under the direct supervision of a barber who has at least two (2) years of practical experience as a barber.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board of Barber Examiners shall issue a certificate of registration as a barber apprentice to any person applying therefor who submits to said Board satisfactory evidence that such applicant:

1. Is over the age of sixteen (16) years;
2. Is able to read and write the English language;
3. Is of good moral character; and
4. Has not prior to such application practiced barbering.

B. All apprentices shall wear a badge which designates them as a barber apprentice and is furnished by the Board with the barber apprentice registration.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.13 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No person, firm, corporation or other legal entity shall operate a barber school or college, or other establishment wherein instruction is given in the practice of barbering, until such person, firm, corporation or other legal entity has made application and received from the Board of Barber Examiners a permit to operate the establishment, school or college. The school, college or other establishment shall be subject to the provisions of the Oklahoma Barbers Regulation Act.

B. The Board shall promulgate and enforce rules governing the conduct of such establishments, schools or colleges and the courses of instruction therein. No such establishment, school or college shall be approved or permit issued to any person, firm, corporation or other legal entity to operate such establishment, school or college unless:

1. Such course of instruction includes as a prerequisite to graduation not less than one thousand five hundred (1,500) hours' instruction which shall not be completed in a period of less than nine (9) months; and
2. The establishment, school or college has one licensed barber instructor for every fifteen students enrolled in barbering courses.

C. The course of instruction shall include, but not be limited to, scientific fundamentals of barbering; hygienic bacteriology; histology of the hair, skin, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin and hair; massaging and

manipulating the muscles of the scalp, face and neck; haircutting, shaving and bleaching and dyeing of the hair.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.14 of Title 59, unless there is created a duplication in numbering, reads as follows:

Fees for licenses issued by the Board of Barber Examiners shall not be less than:

Barber College or School	\$200.00 per year
Barber Apprentice	\$10.00 per year
Graduate Barber	\$10.00 per year
Barber Examination Fee	\$35.00 per exam
Barber License Fee	\$25.00 per year
Barber License Renewal after Expiration	\$50.00 per year
Barber Instructor License Fee	\$50.00 per year
Barber Instructor Examination Fee	\$50.00 per year
Barber Instructor License Renewal after Expiration	\$75.00 per year

Barbershop License	\$25.00 per year
Barbershop License after Expiration	\$50.00 per year

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.15 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board may refuse to issue or renew a certificate for failure to comply with any of the provisions of the Oklahoma Barbers Regulation Act or the rules promulgated by the Board pursuant thereto. No certificate shall be nonrenewed unless the Board has served written notice upon the holder of the certificate to appear at a Board hearing and show cause why such certificate should not be renewed.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.16 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. If upon complaint, inspection or investigation, or whenever the Board of Barber Examiners determines that there are reasonable grounds to believe that any person is in violation of the Oklahoma Barbers Regulation Act or any rule promulgated thereunder or of any order, registration, permit or license issued pursuant thereto, the Board shall give written notice to the alleged violator of the specific violation and of the alleged violator's duty to correct such violation immediately or within a set time period or appear at a hearing with the date, time and location specified thereby in such notice. The notice shall also specify that failure to correct the violation as required or failure to appear at the hearing as required shall subject such person to administrative penalties, civil actions, criminal action or all such penalties and actions.

B. In addition, the Board, after notice and opportunity for an administrative hearing, may modify, suspend or revoke the holder's registration, permit or license in part or in whole for cause including, but not limited to, the certificate holder's:

1. Flagrant or consistent violations of the Oklahoma Barbers Regulation Act, of rules promulgated thereunder or of final orders, registrations, permits or licenses issued pursuant thereto; or

2. Reckless disregard for the protection of the public as demonstrated by noncompliance with the Oklahoma Barbers Regulation Act.

C. Whenever the Board finds that an emergency exists requiring immediate action to protect the public health or welfare, the Board may without notice or hearing issue an order, effective upon issuance, reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately but may request an administrative hearing thereon within fifteen (15) days after the order is served. Such hearing shall be held by the Board within ten (10) days after receipt of the request. On the basis of the hearing record, the Board shall sustain or modify such order.

D. Except as otherwise expressly provided by law, any notice of violation, order, or other instrument issued by or pursuant to authority of the Board may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by certified mail, return receipt requested, directed to such person at such person's last-known post office address as shown by the files or records of the Board. Proof of service shall be made as in the case of service of a summons or by publication in a civil action. Such proof of service shall be filed with the executive director.

E. Every certificate or affidavit of service made and filed shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

F. 1. The administrative hearings provided for in this section shall be conducted as individual proceedings in accordance with, and a record thereof maintained pursuant to, Article II of the Administrative Procedures Act, the Oklahoma Barbers Regulation Act and rules promulgated thereunder.

2. Such hearing shall be conducted by a hearing officer approved by the executive director or by the Board. After a hearing officer holds the hearing, such officer shall prepare a proposed order and shall:

- a. serve it on the parties, by regular mail, and may offer an opportunity for parties to file exceptions to the proposed order before a final order is entered in the event the Board does not review the record, and
- b. present the proposed order, the exceptions, if any, and the record of the matter to the Board, or
- c. present the proposed order and the record of the matter to the Board for review and entry of a final order for any default, failure to appear at the hearing or if the parties by written stipulation waive compliance with subparagraph a of this paragraph.

3. For administrative proceedings conducted by a hearing officer pursuant to this section, the Board may adopt, amend or reject any findings or conclusions of the hearing officer or exceptions of any party and issue a final order accordingly, or may in its discretion remand the proceeding for additional argument or the introduction of additional evidence at a hearing held for the purpose. For any hearing conducted by a hearing officer, a final order shall not be issued by the Board until after a review of the record by the Board.

4. Any order issued by the Board shall become final upon service.

G. Any party aggrieved by a final order may petition the Board for rehearing, reopening or reconsideration within ten (10) days from the date of the entry of the final order. Any party aggrieved by a final order, including the Attorney General on behalf of the

state, may, pursuant to the Administrative Procedures Act, petition for a judicial review thereof.

H. If the Attorney General seeks redress on behalf of the state, as provided for in subsection G of this section, the executive director is empowered to appoint a special counsel for such proceedings.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.17 of Title 59, unless there is created a duplication in numbering, reads as follows:

If the Board of Barber Examiners undertakes an enforcement action as a result of a complaint, the Board shall notify the complainant of the enforcement action by mail and offer the complainant an opportunity to provide written information pertinent to the complaint within fourteen (14) calendar days after the date of the mailing.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.18 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The following acts by any person licensed, permitted or registered pursuant to the Oklahoma Barbers Regulation Act shall constitute grounds for which the penalties specified in Section 24 of this act may be imposed by order of the Board of Barber Examiners:

1. Being convicted of a felony or of any offense involving moral turpitude, or of violating the laws relating to controlled dangerous substances of the United States or the State of Oklahoma. A copy of the judgment and sentence of said conviction, duly certified by the clerk of the court in which the conviction was obtained, and a certificate of said clerk that said conviction has become final, shall be sufficient evidence for the imposition of a penalty;

2. Being habitually drunk or habitually using habit-forming drugs;

3. Using advertising in which statements are made that are fraudulent, deceitful or misleading to the public;

4. Aiding or abetting any person not licensed to practice barbering in this state to practice barbering, except students who are regularly enrolled in an accredited barber college;

5. Performing or attempting to perform major or minor surgery in this state;

6. Working in the nude, as such term is defined by Section 1040.75 of Title 21 of the Oklahoma Statutes, or seminude;

7. Using or having in his possession any instrument for treatment purposes, the use or possession of which has been prohibited or declared unlawful by any agency of the United States or the State of Oklahoma;

8. Unlawfully possessing or administering any drug, medicine, serum or vaccine;

9. Continuing to practice after such person becomes afflicted with an infectious, contagious, or communicable disease;

10. Continued practice by a barber in a barbershop wherein violations of the rules of the Board are being committed with the knowledge of the barber;

11. Failure to display license or certificate as provided in the Oklahoma Barbers Regulation Act;

12. Continuing the practice of barbering, or practicing as a registered barber apprentice, graduate barber, permittee, barber college, school or establishment, or licensed barber instructor after expiration of a certificate therefor;

13. Employing, as owner, lessee, manager or in any other supervisory capacity, any person to perform the practice of barbering or practice as a barber assistant or apprentice, who is not duly certified, registered or permitted to perform said services;

14. Operating or attempting to operate a barber college or school or other establishment where barbering is practiced or barbershop without having obtained a license therefor from the Board;

15. Serving as a barber instructor or attempting to give instruction without having obtained an instructor's license from the Board;

16. Practicing the trade of barber, barber instructor, barber apprentice, or graduate barber, without having at the time a valid, unrevoked certificate;

17. Placing a barber pole on any premises where barbering is practiced unless one barber or more are employed; or

18. Violating any provision of the Oklahoma Barbers Regulation Act or any order issued or rule promulgated pursuant to the Oklahoma Barbers Regulation Act.

B. It shall be unlawful and a violation of the Oklahoma Barbers Regulation Act for any person to:

1. Knowingly make any false statement, representation or certification in, or omit material data from, any application for a permit, license, certificate or other authorization, or any notice, analysis or report required by the Oklahoma Barbers Regulation Act, rules promulgated thereunder or any registration, permit, or license issued pursuant thereto;

2. Knowingly misrepresent or omit material data in the report;

3. Alter any sample; or

4. Knowingly render inaccurate any device or method required to be maintained by the Oklahoma Barbers Regulation Act, or by order, rule, permit, license, registration, certificate or other authorization.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.19 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise specifically provided by the Oklahoma Barbers Regulation Act or by law, any person who violates any of the provisions of, or who fails to perform any duty imposed by, the Oklahoma Barbers Regulation Act or who violates any order, registration, permit or license issued by the Board of Barber Examiners or rule promulgated pursuant to the Oklahoma Barbers Regulation Act:

1. Shall be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not more than Five Hundred Dollars (\$500.00) for each violation. The maximum fine shall not exceed One Thousand Dollars (\$1,000.00) for any series of violations. Such person may also be punished by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment;

2. May be punished in civil proceedings in district court by assessment of a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each violation;

3. May be subject to injunctive relief granted by a district court. A district court may grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of the Oklahoma Barbers Regulation Act or any rule promulgated thereunder or order, registration, license or permit issued pursuant to the Oklahoma Barbers Regulation Act; or

4. After notice and opportunity for a hearing, pursuant to the Oklahoma Barbers Regulation Act and to Article II of the Administrative Procedures Act, may be subject to an order issued by the Board imposing one or more of the following penalties whenever it finds any person to be in violation of any of the acts set forth in Section 23 of this act:

- a. disapproval of an application for issuance or for a renewal certificate,
- b. modification, revocation or suspension of an original certificate or renewal certificate, or both,
- c. restriction of the practice of barbering,
- d. imposition of an administrative penalty not to exceed Five Hundred Dollars (\$500.00) for each violation. The maximum administrative penalty shall be One Thousand Dollars (\$1,000.00) for any series of violations,
- e. issuance of a reprimand, or
- f. placement of any person licensed, permitted or registered pursuant to the Oklahoma Barbers Regulation Act on probation for a period of time and subject to such conditions as the Board may specify.

B. Nothing in this part shall preclude the Board from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum criminal penalties for violations of the Oklahoma Barbers Regulation Act.

C. Any person assessed an administrative or criminal penalty shall be required to pay, in addition to such penalty amount and interest thereon, attorneys' fees and costs associated with the collection of such penalties.

D. For purposes of this section, each day or part of a day upon which such violation occurs shall constitute a separate violation.

E. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Oklahoma Barbers Regulation Act or of any rule promulgated thereunder, or order, registration, license or permit issued pursuant thereto.

F. 1. Any civil proceedings or action for injunctive relief to redress or restrain a violation by any person of the Oklahoma Barbers Regulation Act or for any rule promulgated thereunder, or order, registration, license, or permit issued pursuant thereto or recovery of any administrative or civil penalty assessed pursuant to the Oklahoma Barbers Regulation Act may be brought by:

- a. the district attorney of the appropriate district court of this state,
- b. the Attorney General on behalf of this state, or
- c. the Board on behalf of this state.

2. It shall be the duty of the Attorney General and district attorney if requested by the Board to bring such actions.

3. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

G. Except as otherwise provided by law, administrative and civil penalties shall be paid into the Board of Barber Examiners Revolving Fund.

H. In determining the amount of an administrative penalty or a civil penalty, the Board or court, as applicable, shall consider

such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good faith efforts to comply with the applicable requirements, the defendant's degree of culpability, and such other matters as justice may require.

I. When an original certificate or renewal certificate has been suspended under the provisions of the Oklahoma Barbers Regulation Act and the period of suspension has expired, such certificate shall be reinstated upon the payment to the Board of a reinstatement fee in the amount of One Hundred Dollars (\$100.00).

J. Pursuant to the provisions of the Oklahoma Barbers Regulation Act, the Board may by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum penalties, periods of supervision or probation, conditions of probation, or conditions for the reinstatement of an original license or renewal license, or both.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 62.20 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Board of Barber Examiners, to be designated the "Board of Barber Examiners Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board pursuant to the provisions of the Oklahoma Barbers Regulation Act or any other funds deposited in the State Treasury to the credit of the Board of Barber Examiners Revolving Fund, pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board for the purpose of implementing the provisions of the Oklahoma Barbers Regulation Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims signed by an authorized employee or employees of the Board and filed as prescribed by law with the Director of State Finance for approval and payment. The fund shall be administered in accordance with the Revolving Fund Procedures Act.

B. Effective September 1, 1996, all unexpended funds, property, records, personnel and any outstanding financial obligations or encumbrances of the State Department of Health relating to the regulation of the practice of barbering shall be transferred to the Board of Barber Examiners.

C. The State Treasurer, the Director of State Finance and the Director of the Department of Central Purchasing shall take all necessary actions to facilitate the transfer of funds, property, records, personnel and any outstanding financial obligations or encumbrances relating to the regulation of the practice of barbering from the State Department of Health to the Board of Barber Examiners, including, but not limited to, the establishment of agency codes, accounts and funds.

D. With regard to all functions transferred to the Board of Barber Examiners, the rules of the Oklahoma State Department of Health relating to such functions transferred shall remain in effect until the promulgation of rules by the Board of Barber Examiners. By February 1, 1997, the Board of Barber Examiners shall have adopted proposed permanent rules to implement the functions within the jurisdiction of the Board of Barber Examiners pursuant to the Oklahoma Barbers Regulation Act and shall submit the proposed rules for legislative review as required by the Administrative Procedures Act.

E. Unexpired or unrevoked licenses, permits, certifications or registrations issued prior to September 1, 1996, shall remain valid for stated terms and conditions. Such licenses, permits or registrations shall be subject to the laws and rules of the Board of Barber Examiners pursuant to the Oklahoma Barbers Regulation Act.

F. All rights, obligations and remedies arising out of laws, rules, agreements and causes of action related to the practice of barbering are also transferred to the Board of Barber Examiners.

G. Nothing in the Oklahoma Barbers Regulation Act shall operate to bar or negate any existing order, claim or cause of action transferred to the Board of Barber Examiners, nor shall it operate to affect enforcement action undertaken by any program, division or service prior to such transfer to the Board of Barber Examiners. Violations of provisions of law now contained in this title, and violations of rules, permits or final orders which occurred prior to the transfer of jurisdiction and authority to the Board of Barber Examiners shall be subject to penalties available and existing at the time of violation.

SECTION 26. REPEALER 59 O.S. 1991, Sections 61.1, as amended by Section 1, Chapter 87, O.S.L. 1992, 61.2, as amended by Section 2, Chapter 87, O.S.L. 1992, 61.3, 61.4, 61.5 and 61.6, as amended by Section 3, Chapter 87, O.S.L. 1992 (59 O.S. Supp. 1995, Sections 61.1, 61.2 and 61.6), are hereby repealed.

SECTION 27. REPEALER 59 O.S. 1991, Section 150, is hereby repealed.

SECTION 28. This act shall become effective September 1, 1996.

Passed the House of Representatives the 30th day of May, 1996.

Speaker of the House of Representatives

Passed the Senate the 30th day of May, 1996.

President of the Senate