

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1029

By: Stottlemyre

AS INTRODUCED

An Act relating to professions and occupations;  
amending 59 O.S. 1991, Sections 199.3, as amended  
by Section 2, Chapter 135, O.S.L. 1994 and 199.6  
(59 O.S. Supp. 1994, Section 199.3) which relate to  
cosmetology; modifying certain powers of the  
Cosmetology Board; authorizing the establishing,  
levying and collecting of administrative fines;  
clarifying certain language; modifying and  
clarifying certain procedures relating to  
discipline of holders of licenses, registrations,  
and permits; authorizing certain informal hearings  
and providing procedures and rights related  
thereto; specifying certain administrative fines  
and proceedings related thereto; authorizing the  
Board to make application to the courts for orders  
for certain injunctive relief and other appropriate  
orders; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 199.3, as amended by Section 2, Chapter 135, O.S.L. 1994 (59 O.S. Supp. 1994, 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 necessary therefor.

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

1. Subject to approval of the State Commissioner of Health, the Board shall adopt and promulgate rules relating to standards of sanitation, which shall be observed and practiced by all beauty schools and beauty shops. Said rules may be changed or modified. The Board shall furnish copies of the rules to the owner or manager of each beauty school or beauty shop operating in this state, and it shall be the duty of each owner or manager to post the rules in a conspicuous place in each of the establishments;

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;

3. The Board shall keep a record of its proceedings. It shall keep a record of all applicants for certificates, 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, 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;

4. The Board shall have authority to issue all ~~certificates of registration~~ registrations, licenses, permits, notices and orders, and to establish and levy administrative fines, to initiate disciplinary proceedings and to request prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of this act or any rules promulgated and adopted pursuant to this act;

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

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

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

8. The Board shall have the power to refuse, revoke, or suspend licenses, ~~certificates of registration~~ registrations or permits after full hearing conducted in accordance with Article II of the Administrative Procedures Act, on proof of violation of any ~~of these provisions or the rules established by the Board, and~~ provision of this act or rule established by the State Board of Cosmetology

pursuant to this act. The Board shall have the power to require the production of such books, records, and papers as it may desire-;

9. 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 written notice, ~~in writing~~, of the charge or charges against him or her, and shall, at a day specified in the notice, which shall be at least five (5) days after the service thereof, be given a public hearing in accordance with the Administrative Procedures Act with a full opportunity to produce testimony in his or her behalf-;

10. Any person whose license, ~~certificate of~~ registration or permit has been suspended or revoked may, after the expiration of ~~thirty (30) days~~ one (1) year, make application to the Board for reinstatement thereof. Reinstatement of any such license, ~~certificate of~~ registration or permit shall rest in the sound discretion of said Board-;

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

12. Informal hearings of disciplinary actions may be conducted after the filing of a sworn complaint, but before any formal Board action is taken. Informal disposition may be made of any proceeding by stipulation, agreed settlement, consent order or default. All informal dispositions of matters shall not be final and effective until the full Board, at a regularly called session, endorses and renders its acceptance of the proposed agreement of the parties. Such informal hearings shall be held without prejudice to the right of the Board thereafter, if the controversy is not resolved, to institute a formal hearing governing the same matters, or the right

of the licensee involved, if the controversy is not resolved, to request a formal hearing; and

~~9.~~ 13. 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 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 licensee may resume practice under his or her license without other or further examination by notifying the Board in writing. The period of time in which 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 2. AMENDATORY 59 O.S. 1991, Section 199.6, is amended to read as follows:

Section 199.6 ~~From~~ In addition to possible suspension or revocation of a license, registration or permit, from and after the effective date of this act July 1, 1995, it shall be unlawful and constitute a misdemeanor, punishable upon conviction by a fine of not less than Fifty Dollars (\$50.00), nor more than One Hundred Fifty Dollars (\$150.00), or by imprisonment in the county jail for not more than thirty (30) days, or both such fine and imprisonment, for any person, firm, or corporation in this state to:

~~(a)~~ 1. Operate or attempt to operate a beauty school or beauty shop without having obtained a license therefor from the State Board of Cosmetology, as required by law~~;~~;

~~(b)~~ 2. Serve as an instructor or attempt to give instruction without having obtained an instructor's license from the State Board of Cosmetology, as required by law~~;~~;

~~(e)~~ 3. Practice or offer to practice cosmetology or manicuring without having obtained a license therefor from the State Board of Cosmetology, as required by law;i

~~(d)~~ 4. Operate a cosmetic studio without having obtained a license therefor from the State Board of Cosmetology, as required by law;i

~~(e)~~ 5. Demonstrate a cosmetic preparation without having obtained a demonstrator's license from the State Board of Cosmetology, as required by law;i

~~(f)~~ 6. Permit any person in one's employ, supervision or control to practice cosmetology unless that person has obtained an appropriate license from the State Board of Cosmetology;i

~~(g)~~ 7. Willfully violate any rule or rules adopted by the State Board of Cosmetology and approved by the Commissioner of the State Department of Health, for the sanitary management and operation of a beauty school or beauty shop;i or

~~(h)~~ 8. Violate any of the provisions of this act.

If after a hearing in accordance with Section 199.3 of this title, the Board shall find any person to be in violation of any provision of this act or Board rule established pursuant to this act, in addition to other penalties provided by law, such person may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person is in violation of this act may constitute a separate violation. The maximum fine shall not exceed One Thousand Dollars (\$1,000.00). Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

The State Board of Cosmetology may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act. Upon a showing by the State Board of Cosmetology that the person has engaged in any of the prohibited

acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

The provisions of this act shall not apply to funeral directors, or to persons in the Armed Services, or to persons authorized to practice the healing arts, or nursing, while said persons are engaged in the proper discharge of their professional duties; nor shall anything in this act be construed to apply to regularly employed sales people working in retail establishments engaged in the business of selling cosmetics in sealed packages.

SECTION 3. This act shall become effective November 1, 1995.

45-1-5219

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