

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2772

By: Osburn (Mike)

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to professions and occupations;
10 amending 59 O.S. 2011, Sections 199.1, as last
11 amended by Section 1, Chapter 260, O.S.L. 2014,
12 199.3, as last amended by Section 3, Chapter 260,
13 O.S.L. 2014, 199.13, as last amended by Section 10,
14 Chapter 260, O.S.L. 2014 and 199.14, as last amended
15 by Section 11, Chapter 260, O.S.L. 2014 (59 O.S.
16 Supp. 2017, Sections 199.1, 199.3, 199.13 and
17 199.14), which relate to the Oklahoma Cosmetology and
18 Barbering Act; modifying definition; modifying powers
19 and duties of the State Board of Cosmetology and
20 Barbering; modifying reciprocity licenses; removing
21 fee for certain license; and providing an effective
22 date.

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

24 SECTION 1. AMENDATORY 59 O.S. 2011, Section 199.1, as
last amended by Section 1, Chapter 260, O.S.L. 2014 (59 O.S. Supp.
2017, Section 199.1), is amended to read as follows:

Section 199.1 As used in the Oklahoma Cosmetology and Barbering
Act:

1 1. "Apprentice" means a person who is engaged in learning the
2 practice of cosmetology or barbering in a cosmetology or barbering
3 establishment;

4 2. "Barber" or "barber stylist" means any person who engages in
5 the practice of barbering;

6 3. "Barbering" means any one or any combination of the
7 following practices, when done upon the upper part of the human body
8 for cosmetic purposes and when done for payment either directly or
9 indirectly for the general public, constitutes the practice of
10 barbering, to wit: Shaving or trimming the beard or cutting the
11 hair; giving facial or scalp massages or treatment with oils,
12 creams, lotions or other preparations, either by hand or mechanical
13 appliances; singeing, shampooing or applying lighteners or color to
14 the hair or applying hair tonics; applying cosmetic preparations,
15 antiseptics, powders, oils, clays or lotions to scalp, face, neck or
16 upper part of the body; and removing superfluous hair from the face,
17 neck or upper part of the body;

18 4. "Barber establishment" means an establishment or place of
19 business where one or more persons are engaged in the practice of
20 barbering, but shall not include barber schools or colleges;

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

23 6. "Board" means the State Board of Cosmetology and Barbering;
24

1 7. "Cosmetic studio" means any place or premises where
2 demonstrators give demonstrations, without compensation, for the
3 purpose only of advertising and selling cosmetics;

4 8. "Cosmetician" means a person licensed by the Board to
5 perform patron services limited to hair arranging and application of
6 makeup, including, but not limited to, using hairstyling tools and
7 products. Services must be performed in a licensed establishment;

8 9. "Cosmetology" means any one or combination of practices
9 generally and usually performed by and known as the occupation of
10 beauticians, beauty culturists, beauty operators, cosmeticians,
11 cosmetologists, or hairdressers or of any other person holding
12 himself or herself out as practicing cosmetology by whatever
13 designation and within the meaning of the Oklahoma Cosmetology and
14 Barbering Act and in or upon whatever place or premises.

15 Cosmetology shall include, but not be limited to, any one or
16 combination of the following practices: bleaching, cleansing,
17 curling, cutting, coloring, dressing, removing, singeing, styling,
18 waving, or similar work upon the hair of any person by any means,
19 whether with hands or mechanical or electrical apparatus or
20 appliances. Nothing in the Oklahoma Cosmetology and Barbering Act
21 shall be construed to prohibit the use of hands or mechanical or
22 electrical apparatus or appliances for the nonpermanent removal of
23 hair from the human body without puncturing of the skin or the use
24 of cosmetic preparations, antiseptics, tonics, lotions, or creams,

1 or massaging, cleansing, stimulating, exercising, beautifying, or
2 similarly working the scalp, face, neck, arms, or the manicuring of
3 the nails of any person, exclusive of such of the foregoing
4 practices as are within the scope of practice of the healing arts as
5 provided by law;

6 10. "Cosmetology establishment" means an establishment or place
7 of business where one or more persons are engaged in the practices
8 of cosmetology but shall not include cosmetology schools or
9 colleges;

10 11. "Cosmetology or barber school/college" means any place or
11 premises where instruction in any or all the practices of
12 cosmetology or barbering is given. Any person, firm, institution or
13 corporation, who holds himself, herself or itself out as a school to
14 teach and train, or any person, firm, institution or corporation who
15 shall teach and train any other person or persons in any of the
16 practices of cosmetology or barbering is hereby declared to be
17 engaged in operating a cosmetology and/or barber school, and shall
18 be subject to the provisions of the Oklahoma Cosmetology and
19 Barbering Act. Licensed cosmetology and/or barber schools may offer
20 education to secondary and postsecondary students in this state;

21 12. "Demonstrator" means a person who is not licensed in this
22 state as an operator or instructor and who demonstrates any cosmetic
23 preparation. The person shall be required to obtain a Demonstrator
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1 license and pass a state written exam relating to general safety and
2 sanitation from the Board before making any such demonstrations;

3 13. "Facial/Esthetics instructor" means a person licensed by
4 the Board as a qualified teacher of the art and science of facial
5 and esthetics theory and practice;

6 14. "Facialist/Esthetician" means any person who gives facials
7 for compensation;

8 15. "Hairbraiding technician" means a person ~~licensed~~ certified
9 by the Board to perform hairbraiding, hairweaving techniques, and
10 hair extensions in a licensed cosmetology establishment;

11 16. "Hybrid learning" means courses that combine face-to-face
12 classroom instruction with on-line, computer-based learning;

13 17. "Manicurist/Nail technician" means a person who gives
14 manicures, gives pedicures, or applies artificial nails;

15 18. "Manicurist/Nail technician instructor" means a person
16 licensed by the Board as a qualified teacher of the art and science
17 of nail technology theory and practice;

18 19. "Master barber instructor" means a person who gives
19 instruction in barbering or any practices thereof;

20 20. "Master cosmetology instructor" means a person who gives
21 instruction in cosmetology or any practices thereof;

22 21. "~~Post-secondary~~ Postsecondary institution" means a school
23 licensed to teach students according to prescribed curriculum as in
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paragraph 1 of subsection ~~F~~ G of Section 199.7 of this title and in Board rule 175:10-3-34(a);

22. "Public school" means any state-supported institution conducting a cosmetology program;

23. "Secondary institution" means a school licensed to teach students eligible for credit of five hundred (500) hours of related subjects as prescribed in paragraph 2 of subsection ~~F~~ G of Section 199.7 of this title and in Board rule 175:10-3-34(b); and

24. "Student" means a person who is enrolled in and attending a cosmetology or barbering school for the purpose of learning the practice of cosmetology or barbering.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 199.3, as last amended by Section 3, Chapter 260, O.S.L. 2014 (59 O.S. Supp. 2017, 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 and Barbering is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions of the Oklahoma Cosmetology and Barbering Act.

B. The Board shall have the powers and duties to:

1. Promulgate rules pursuant to the Administrative Procedures Act relating to standards of sanitation which must be observed and practiced by all cosmetology and barber establishments, cosmetology

1 or barber schools, master cosmetology instructors, master barber
2 instructors, barbers, apprentices, students, and board licensees.
3 The Board shall furnish copies of the rules to the owner or manager
4 of each cosmetology school, barber school and cosmetology and barber
5 establishment operating in this state. It shall be the duty of each
6 owner or manager to post a copy of the rules in a conspicuous place
7 in each of the establishments or schools;

8 2. Conduct examinations of applicants for certificates of
9 registration as manicurists, cosmetologists, facial operators,
10 hairbraiding technician, manicurist/nail technician instructor,
11 facial/esthetics instructor, master cosmetology instructor,
12 cosmetician, barber, or barber instructor at such times and places
13 determined by the Board. Applications for all examinations shall be
14 made on forms approved by the Board;

15 3. Keep a record of all its proceedings. The Board shall keep
16 a record of all applicants for certificates, licenses and permits,
17 showing the name of the applicant, the name and location of the
18 place of occupation or business, if any, and the residence address
19 of the applicant, and whether the applicant was granted or refused a
20 certificate, license or permit. The records of the Board shall be
21 valid and sufficient evidence of matters contained therein, shall
22 constitute public records. Records shall be open to public
23 inspection at all reasonable times and subject to the Oklahoma Open
24 Records Act. Notwithstanding any other provision of law to the

1 contrary, records and information obtained in connection with an
2 investigation of alleged violations, including complaints, identity
3 of a complainant, investigative reports, and documentation or images
4 generated or received during the course of an investigation, shall
5 be confidential and shall not be subject to disclosure;

6 4. Issue all certificates of registration, licenses, permits,
7 notices and orders;

8 5. Establish limited specialty licenses for cosmetician,
9 facial/esthetics instructor, ~~hairbraiding technician,~~
10 manicurist/nail technician instructor, master barber instructor, or
11 master cosmetology instructor within the practice of cosmetology or
12 barbering. The Board shall also promulgate rules for special
13 licenses, including but not limited to reduced curriculum
14 requirements, as the Board may deem appropriate and necessary to
15 further the purposes of the Oklahoma Cosmetology and Barbering Act;

16 6. Make regular inspections of all cosmetology and barber
17 schools and cosmetology and barber establishments licensed to
18 operate in this state, and reports thereof shall be kept and
19 maintained in the office of the Board;

20 7. Make investigations and reports on all violations of the
21 Oklahoma Cosmetology and Barbering Act;

22 8. Take samples of beauty supplies for the purpose of chemical
23 analysis; provided, that if the owner demands payment for the sample
24 taken, payment at the regular retail price shall be made;

1 9. Refuse, revoke, or suspend licenses, certificates of
2 registration or permits after notice and an opportunity for a full
3 hearing, pursuant to Article II of the Administrative Procedures
4 Act, on proof of violation of any of these provisions or the rules
5 established by the Board;

6 10. Enter into any contracts necessary to implement or enforce
7 the provisions of the Oklahoma Cosmetology and Barbering Act or
8 rules promulgated thereto; and

9 11. Apply to a court of competent jurisdiction for an order
10 enjoining an unlicensed person from practicing cosmetology or
11 barbering or holding himself or herself out as a practitioner of
12 cosmetology or barbering. Injunctive relief granted by the court
13 shall be without bond.

14 C. 1. Any person whose license, certificate of registration,
15 or permit has been suspended or revoked may, after the expiration of
16 thirty (30) days, make application to the Board for reinstatement
17 thereof.

18 2. Reinstatement of any such license, certificate of
19 registration, or permit shall rest in the sound discretion of the
20 Board.

21 3. Any action of the Board in refusing, revoking, or suspending
22 a license, certificate of registration, or permit may be appealed to
23 the district court of the county of the appellant's residence
24 pursuant to the Administrative Procedures Act.

1 D. 1. In any case where a licensee becomes a member of the
2 Armed Forces of the United States, such license shall not lapse by
3 reason thereof but shall be considered and held in full force and
4 effect without further payment of license fees during the period of
5 service in the Armed Forces of the United States and for six (6)
6 months after honorable release therefrom. At any time within six
7 (6) months after honorable release from the Armed Forces of the
8 United States the licensee may resume practice pursuant to a license
9 without other or further examination by notifying the Board in
10 writing.

11 2. The period of time in which the licensee shall have been a
12 member of the Armed Forces of the United States shall not be
13 computed in arriving at the amount of fee or fees due or to become
14 due by such licensee.

15 SECTION 3. AMENDATORY 59 O.S. 2011, Section 199.13, as
16 last amended by Section 10, Chapter 260, O.S.L. 2014 (59 O.S. Supp.
17 2017, Section 199.13), is amended to read as follows:

18 Section 199.13 A. The State Board of Cosmetology and Barbering
19 may issue a reciprocity license to an applicant if:

20 1. The applicant has complied with the requirements of another
21 state, territory or province and applicant holds a current license
22 as verified by certification; and

23 2. The applicant successfully passes Oklahoma's state rules,
24 regulations and law test administered by the Board.

1 B. The Board may issue a license without examination to an
2 applicant from a foreign country or territory if:

3 1. The applicant is otherwise qualified and possesses a current
4 license issued in that foreign country or territory; or

5 2. The applicant is otherwise qualified and does not possess a
6 current license issued in that foreign country or territory, but can
7 show he or she has continuously engaged in the practices or
8 occupation for which a reciprocity license is applied for at least
9 (3) years immediately prior to such application.

10 The applicant from a foreign country or territory applying for a
11 cosmetology, manicurist, facialist, ~~hairbraiding technician~~ or
12 barber license shall successfully pass Oklahoma's state rules,
13 regulations and law test administered by the Board and shall possess
14 the equivalent of at least an eighth-grade education.

15 The applicant from a foreign country or territory applying for a
16 master instructor's license shall successfully pass Oklahoma's state
17 rules, regulations and law test administered by the Board and shall
18 possess the equivalent of a high school education.

19 The applicant from a foreign country may be required to provide
20 evidence that documents have been verified as valid by a creditable
21 agency as recognized by the Board.

22 C. The applicant from a foreign country or territory who is
23 otherwise qualified, but who possesses a current license issued in
24 that foreign country or territory must take examinations, both

1 practical and written, to be issued a license if the applicant
2 cannot show that he or she has been continuously engaged in the
3 practices or occupation for which a reciprocity license is applied
4 for at least three (3) years immediately prior to such application
5 and shall successfully pass Oklahoma's state rules, regulations and
6 law test administered by the Board.

7 D. Payment of the reciprocity fee shall also constitute payment
8 of the first annual license fee.

9 E. The Board may establish by rule any administrative or other
10 fees associated with processing reciprocity applications for
11 licensure without examination.

12 SECTION 4. AMENDATORY 59 O.S. 2011, Section 199.14, as
13 last amended by Section 11, Chapter 260, O.S.L. 2014 (59 O.S. Supp.
14 2017, Section 199.14), is amended to read as follows:

15 Section 199.14 A. The following fees shall be charged by the
16 State Board of Cosmetology and Barbering:

17	Registration as a student.....	\$ 5.00
18	Examination for license	35.00
19	Cosmetology and Barber school license (initial).....	400.00
20	Cosmetology and Barber school license (renewal).....	125.00
21	Apprentice Registration.....	10.00
22	Renewal Advanced Operator license (annual).....	25.00
23	Facial Operator license (annual).....	25.00
24	Cosmetology license (annual).....	25.00

1	Barber license (annual).....	25.00
2	Manicurist license (annual).....	25.00
3	Facial/Esthetics Instructor license (annual).....	30.00
4	Cosmetician license (annual).....	25.00
5	Hairbraiding Technician license (annual).....	25.00
6	Manicurist/Nail Technician Instructor license (annual).	30.00
7	Demonstrator license (annual).....	20.00
8	Master Cosmetology Instructor license (annual)	50.00
9	Master Barber Instructor license (annual).....	50.00
10	Cosmetology establishment license (initial).....	45.00
11	Cosmetology establishment license (renewal).....	30.00
12	Barber establishment license (initial).....	45.00
13	Barber establishment license (renewal).....	30.00
14	Cosmetic Studio license (initial).....	50.00
15	Cosmetic Studio license (renewal)	30.00
16	Nail Salon (initial)	45.00
17	Nail Salon (renewal)	30.00
18	Reciprocity license (initial).....	30.00
19	Reciprocity processing fee.....	30.00
20	Duplicate license (in case of loss or	
21	destruction of original).....	5.00
22	Notary fee.....	1.00
23	Certification of Records.....	10.00
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1 B. In addition to the fees specified in subsection A of this
2 section, the Board shall charge a total penalty of Ten Dollars
3 (\$10.00), as provided for in Section 199.10 of this title.

4 C. Any person licensed as an advanced operator prior to July 1,
5 1985, may renew the advanced cosmetologist license annually by
6 payment of the fee required by this section and by being in
7 compliance with the rules promulgated by the State Board of
8 Cosmetology and Barbering.

9 SECTION 5. This act shall become effective November 1, 2018.

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11 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated
12 02/28/2018 - DO PASS, As Amended.
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