

REGULATION OF BARBERING AND COSMETOLOGY
Occupations Code, Chapter 1603
Title 9. General Provisions Relating to Licensing
(Effective June 8, 2015)

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1603.001. General Definitions.

- (a) In this chapter:
 - (1) "Commission" means the Texas Commission of Licensing and Regulation.
 - (2) "Department" means the Texas Department of Licensing and Regulation.
 - (3) "Executive director" means the executive director of the department.
- (b) Unless the context clearly indicates otherwise, the definitions in Chapters 1601 and 1602 apply to this chapter.

Sec. 1603.002. Regulation of Barbering and Cosmetology by Department of Licensing and Regulation.

The department shall administer this chapter and Chapters 1601 and 1602. A reference in this chapter to the commission's or department's powers or duties applies only in relation to those chapters, except that this section does not limit the department's or commission's general powers under Chapter 51.

SUBCHAPTER B. ADVISORY BOARDS FOR BARBERING AND COSMETOLOGY

Sec. 1603.051. Duties.

The advisory boards established under Chapters 1601 and 1602 shall advise the commission on administering this chapter and Chapters 1601 and 1602 regarding barbering or cosmetology, as applicable.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 1603.101. Rules.

The commission shall adopt rules consistent with this chapter for:

- (1) the administration of this chapter and the operations of the department in regulating barbering and cosmetology; and
- (2) the administration of Chapters 1601 and 1602.

Sec. 1603.102. Sanitation Rules.

The commission shall establish sanitation rules to prevent the spread of an infectious or contagious disease.

Sec. 1603.103. Inspection of Schools Before Operation.

- (a) Until the department determines, by inspection, that the person has established the school in compliance with this chapter, Chapter 1601, or Chapter 1602, a person may not operate a school licensed or permitted under this chapter, Chapter 1601, or Chapter 1602.
- (b) A school that is not approved by the department on initial inspection may be reinspected.
- (c) The department may charge the school a fee for each inspection. The commission shall by rule set the amount of the fee.

Sec. 1603.104. Periodic and Risk-Based Inspections.

- (a) The department may enter and inspect at any time during business hours:
 - (1) the place of business of any person regulated under this chapter, Chapter 1601, or Chapter 1602; or
 - (2) any place in which the department has reasonable cause to believe that a certificate, license, or permit holder is practicing in violation of this chapter, Chapter 1601, or Chapter 1602 or in violation of a rule or order of the commission or executive director.
- (b) At least once every two years, the department shall inspect each shop or other facility that holds a license, certificate, or permit in which the practice of barbering or cosmetology is performed under this chapter, Chapter 1601, or Chapter 1602, and at least twice per year, the department shall inspect each school in which barbering or cosmetology is taught under this chapter, Chapter 1601, or Chapter 1602.
- (c) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:
 - (1) the type and nature of the school, shop, or other facility;
 - (2) whether there has been a prior sanitation violation at the school, shop, or facility;
 - (3) the inspection history of the school, shop, or other facility;
 - (4) any history of complaints involving the school, shop, or other facility; and
 - (5) any other factor determined by the commission by rule.
- (d) An inspector who discovers a violation of this chapter, Chapter 1601, or Chapter 1602 or of a rule or order of the commission or executive director shall:
 - (1) provide written notice of the violation to the license, certificate, or permit holder on a form prescribed by the department; and
 - (2) file a complaint with the executive director.
- (e) The department may charge the school, shop, or other facility a fee for each inspection performed under Subsection (c). The commission shall by rule set the amount of the fee.

Sec. 1603.1045. Contract to Perform Inspections.

The department may contract with a person to perform for the department inspections of a school, shop, or other facility under this chapter, Chapter 1601, or Chapter 1602.

Sec. 1603.105. Retention of Student Records.

The department may not retain student records, including student transcripts, beyond the time required by state law.

SUBCHAPTER D. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

Sec. 1603.151. Notification of Public Interest Information and Participation.

The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department regarding barbering and cosmetology. The department may provide for that notice:

- (1) on each registration form, application, or written contract for services of a person regulated under this chapter, Chapter 1601, or Chapter 1602;
- (2) on a sign prominently displayed in the place of business of each person regulated under this chapter, Chapter 1601, or Chapter 1602; or
- (3) in a bill for service provided by a person regulated under this chapter, Chapter 1601, or Chapter 1602.

Sec. 1603.152. Complaint Jurisdiction; Notification.

If the department determines that it lacks jurisdiction to resolve the complaint, the department shall notify the complainant in writing that the department is closing the complaint because it lacks jurisdiction.

Sec. 1603.154. Informal Settlement Conference.

The department shall establish guidelines for an informal settlement conference related to a complaint filed with the department.

SUBCHAPTER E. CERTIFICATE, LICENSE, AND PERMIT REQUIREMENTS

Sec. 1603.201. Application Form.

An application for a certificate, license, or permit must be made on a form prescribed and provided by the department.

Sec. 1603.202. Duplicate Certificate, License, or Permit.

The department shall issue a duplicate certificate, license, or permit to an applicant who:

- (1) submits an application for a duplicate certificate, license, or permit to the department; and
- (2) pays the required fee.

Sec. 1603.203. Provisional Certificate or License.

- (a) The department may issue a provisional certificate or license to an applicant currently licensed in another jurisdiction who seeks a certificate or license in this state and who:
 - (1) has been licensed in good standing in the profession for which the person seeks the certificate or license for at least two years in another jurisdiction, including a foreign country, that has requirements substantially equivalent to the requirements of this chapter, Chapter 1601, or Chapter 1602, as appropriate; and
 - (2) has passed a national or other examination recognized by the commission relating to the practice of that profession.
- (b) A provisional certificate or license is valid until the date the department approves or denies the provisional certificate or license holder's application. The department shall issue a certificate or license to the provisional certificate or license holder if:
 - (1) the provisional certificate or license holder is eligible to hold a certificate or license under Chapter 1601 or Chapter 1602; or

- (2) the provisional certificate or license holder passes the part of the examination under Chapter 1601 or Chapter 1602 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of the profession in this state and:
 - (A) the department verifies that the provisional certificate or license holder meets the academic and experience requirements for the certificate or license; and
 - (B) the provisional certificate or license holder satisfies any other certificate or license requirements.
- (c) The department must approve or deny a provisional certificate or license holder's application for a certificate or license not later than the 180th day after the date the provisional certificate or license is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

Sec. 1603.204. Reciprocal Certificate, License, or Permit.

- (a) A person who holds a license, certificate, or permit to practice barbering or cosmetology from another state or country that has standards or work experience requirements that are substantially equivalent to the requirements of this chapter, Chapter 1601, or Chapter 1602 may apply for a license, certificate, or permit to perform the same acts of barbering or cosmetology in this state that the person practiced in the other state or country.
- (b) The person must:
 - (1) submit an application for the license, certificate, or permit to the department; and
 - (2) pay fees in an amount prescribed by the commission, including any applicable license, certificate, or permit fee.
- (c) A person issued a license, certificate, or permit under this section:
 - (1) may perform the acts of barbering or cosmetology stated on the license, certificate, or permit; and
 - (2) is subject to the renewal procedures and fees provided in this chapter, Chapter 1601, or Chapter 1602 for the performance of those acts of barbering or cosmetology.

Sec. 1603.205. Dual Barber and Beauty Shop License.

- (a) A person holding a dual barber and beauty shop license may own, operate, or manage a shop in which any practice of barbering defined by Section 1601.002(1) or cosmetology defined by Section 1602.002(a) is performed.
- (b) An applicant for a dual barber and beauty shop license must submit:
 - (1) an application on a department-approved form that is verified by the applicant;
 - (2) proof that the applicant meets the applicable requirements under Chapters 1601 and 1602 for obtaining a barbershop permit and a beauty shop license; and
 - (3) the required license fee.
- (c) The department shall issue a dual barber and beauty shop license to an applicant that:
 - (1) meets the requirements under this chapter and Chapters 1601 and 1602;
 - (2) complies with commission rules; and

- (3) pays the required fees.
- (d) The holder of a dual barber and beauty shop license must comply with this chapter, Chapters 1601 and 1602, and commission rules related to barbering and cosmetology.

Sec. 1603.206. Mobile Shops.

- (a) In this section, "mobile shop" means a facility that is readily movable and where barbering, cosmetology, or both are practiced other than at a fixed location.
- (b) A barbershop, beauty shop, or specialty shop licensed or permitted under this chapter, Chapter 1601, or Chapter 1602 may be a mobile shop.
- (c) The commission may adopt rules to administer this section, including rules providing for:
 - (1) the licensing or permitting of a mobile shop;
 - (2) the fees for a mobile shop;
 - (3) the operation of a mobile shop;
 - (4) reporting requirements for a mobile shop; and
 - (5) the inspection of a mobile shop.

Sec. 1603.207. Mini-Salons and Mini-Barbershops.

- (a) In this section, "mini-salon or mini-barbershop" includes a room or suite of rooms that is one of a number of connected establishments in a single premises that open onto a common hallway or another configuration of operations as determined by commission rule in which a person practices barbering or cosmetology under a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602.
- (b) The commission may adopt rules for the:
 - (1) licensing, permitting, operation, inspection, and reporting requirements of a mini-salon or mini-barbershop;
 - (2) fees required to issue or renew a license or permit for or to inspect a mini-salon or mini-barbershop; and
 - (3) sanitation standards required for a mini-salon or mini-barbershop.
- (c) A mini-salon or mini-barbershop licensed, certified, or permitted under this section must meet the requirements of a barbershop, beauty shop, dual shop, or specialty shop licensed, certified, or permitted under this chapter, Chapter 1601, or Chapter 1602.

SUBCHAPTER F. EXAMINATION REQUIREMENTS

Sec. 1603.252. General Examination Requirements.

- (a) The department may accept, develop, or contract for the examinations required by this chapter, including the administration of the examinations.
- (b) The executive director shall determine uniform standards for acceptable performance on an examination for a license or certificate under Chapter 1601 and for a license or certificate under Chapter 1602.

- (c) The examination must include a written examination as provided by Section 1603.253 and may include a practical examination as provided by Section 1603.256.

Sec. 1603.253. Written Examination.

The commission shall select an examination for each written examination required under this chapter, Chapter 1601, or Chapter 1602. The written examination must be:

- (1) validated by an independent testing professional; or
- (2) purchased from a national testing service.

Sec. 1603.254. Examination for Barbers.

- (a) An applicant for an examination for a certificate or license issued under Chapter 1601 must submit to the department an application on a form prescribed and provided by the department accompanied by:
 - (1) two photographs of the applicant, one of which accompanies the application and one of which is to be returned to the applicant to be presented at the examination; and
 - (2) the appropriate examination fee.
- (b) The department shall examine applicants for a Class A barber certificate and a teacher's certificate.

Sec. 1603.255. Early Examination.

The department may allow for the early written examination of a student who has completed the following number of hours of instruction in a department-approved training program:

- (1) 1,000 hours for a student seeking a Class A barber certificate or operator license in a private barber or cosmetology school; or
- (2) 900 hours for a student seeking a Class A barber certificate or operator license in a publicly funded barber or cosmetology school.

Sec. 1603.256. Practical Examination.

- (a) The commission may require a practical examination as it considers necessary for a license or certificate issued under Chapter 1601 or 1602.
- (b) The department shall prescribe the method and content of any practical examination.
- (c) The following persons may administer a practical examination required under this subchapter:
 - (1) the department; or
 - (2) a person with whom the department contracts under Section 1603.252.

SUBCHAPTER G. CERTIFICATE, LICENSE, AND PERMIT RENEWAL

Sec. 1603.301. Denial of Renewal Due to Administrative Penalty.

The department may deny a person's request to renew a certificate, license, or permit issued under this chapter, Chapter 1601, or Chapter 1602 if the person has not paid an administrative penalty imposed under Subchapter F, Chapter 51. This section does not apply if:

- (1) the person's time to pay or request a hearing has not expired under Section 51.304;
- (2) the person has requested a hearing under Section 51.304, but the person's time to pay has not expired under Section 51.307; or
- (3) the penalty is stayed.

SUBCHAPTER H. PRACTICE PROVISIONS APPLICABLE TO CHAPTERS 1601 AND 1602

Sec. 1603.351. Minimum Curriculum for Schools; Distance Education.

- (a) The commission shall prescribe the minimum curriculum, including the subjects and the number of hours in each subject, taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602.
- (b) The commission may adopt rules allowing distance education only for the theory portion of the curriculum taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602.
- (c) Distance education does not satisfy the requirements of the practical portion of the curriculum taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602.

Sec. 1603.352. Sterilization Requirements for Certain Services.

- (a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(9) or (10) shall, before performing the service, clean, disinfect, and sterilize with an autoclave or dry heat sterilizer or sanitize with an ultraviolet sanitizer, in accordance with the sterilizer or sanitizer manufacturer's instructions, each metal instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service.
- (b) The owner or manager of a barber shop, barber school, beauty shop, specialty shop, beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602, is responsible for providing an autoclave, a dry heat sterilizer, or an ultraviolet sanitizer for use in the shop or school as required by Subsection (a).
- (c) Each sterilized or sanitized instrument must be stored in accordance with the manufacturer's instructions.
- (d) This section does not apply to:
 - (1) single-use instruments; or
 - (2) nonmetal nail files, buffer blocks, pumice stones, nail brushes, or other similar instruments.
- (e) The commission may adopt rules to administer this section.

SUBCHAPTER I. DENIAL AND DISCIPLINARY PROCEDURES

Sec. 1603.401. Denial, Suspension, or Revocation.

The department shall deny an application for issuance or renewal of, or shall suspend or revoke, a certificate, license, or permit if the applicant or person holding the certificate, license, or permit:

- (1) engages in gross malpractice;
- (2) knowingly continues to practice while having an infectious or contagious disease;
- (3) knowingly makes a false or deceptive statement in advertising;

- (4) advertises, practices, or attempts to practice under another person's name or trade name;
- (5) engages in fraud or deceit in obtaining a certificate, license, or permit; or
- (6) engages in an act that violates this chapter, Chapter 51, Chapter 1601, or Chapter 1602 or a rule or order adopted or issued under those chapters.

SUBCHAPTER J. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1603.451. Injunctive Relief.

- (a) If a certificate, license, or permit holder commits a violation of this chapter, Chapter 1601, Chapter 1602, or a commission rule and the violation poses a serious threat to the public health, the attorney general shall initiate a suit for injunction and proceedings for suspension or revocation of the certificate, license, or permit.
- (b) In seeking an injunction under this section, the attorney general is not required to allege or prove:
 - (1) that an adequate remedy at law does not exist; or
 - (2) that substantial or irreparable damage would result from the continued violation.

Sec. 1603.452. Civil Penalty.

- (a) A barber, barbershop owner, barber school, or private beauty culture school that violates this chapter, Chapter 1601, Chapter 1602, or a commission rule is liable for a civil penalty in addition to any injunctive relief or other remedy provided by law.
- (b) The amount of the civil penalty for a barber or barbershop owner may not exceed \$25 a day for each violation.
- (c) The amount of the civil penalty for a barber school or private beauty culture school may not exceed \$1,000 a day for each violation.
- (d) The attorney general may sue to collect the civil penalty.

Sec. 1603.453. Appeal Bond Not Required.

The department is not required to give an appeal bond in a cause arising under this chapter, Chapter 1601, or Chapter 1602.

Sec. 1603.454. Enforcement by Attorney General.

The attorney general shall represent the department in an action to enforce this chapter, Chapter 1601, or Chapter 1602.

Sec. 1603.455. Emergency Orders.

- (a) The executive director may issue an emergency order to suspend or revoke a license or permit issued, or to cease the operation of an unsafe facility regulated, by the department under this title if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety.
- (b) The executive director may issue the emergency order with or without notice and hearing as the executive director considers practicable under the circumstances.

- (c) If an emergency order is issued under this section without a hearing, the executive director, not later than the 10th day after the date the emergency order was issued, shall set the time and place for a hearing conducted by the State Office of Administrative Hearings to affirm, modify, or set aside the emergency order. The executive director shall set the hearing for a date not later than the 30th day after the date the time and place for the hearing are set. The hearing examiner shall affirm the order to the extent that reasonable cause existed to issue the order.
- (d) The commission by rule may prescribe procedures for the issuance and appeal of an emergency order under this section, including a rule to allow the commission to affirm, modify, or set aside a decision by the State Office of Administrative Hearings under Subsection (c).
- (e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Sec. 1603.456. Cease and Desist Orders

The executive director may issue a cease and desist order, after notice and opportunity for hearing, if the executive director determines that the order is necessary to prevent a violation of:

- (1) this chapter, Chapter 1601, or Chapter 1602; or
- (2) a rule adopted by the commission.