



TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #20-643]

RULEMAKING ACTION: PERMANENT final adoption
RULES: Subchapter 1. General Provisions 175:1-1-2. Definitions [AMENDED]
AUTHORITY: 59 O.S. § 199.3(B)(1) and § 199.7; State Board of Cosmetology and Barbering
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY: January 29, 2020
COMMENT PERIOD: February 15, 2020 to March 20, 2020
PUBLIC HEARING: March 20, 2020
ADOPTION: March 23, 2020
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE: March 28, 2020
APPROVED BY GOVERNOR'S DECLARATION: Approved by Governor's declaration on June 25, 2020
FINAL ADOPTION: June 25, 2020
EFFECTIVE: September 11, 2020
SUPERSEDED EMERGENCY ACTIONS: n/a
INCORPORATIONS BY REFERENCE: n/a
GIST/ANALYSIS: The proposed rules clarify that the practice of barbering does not include the application of makeup.
CONTACT PERSON: John Funderburk, Oklahoma, State Board of Cosmetology and Barbering. Tel. 405-522-7616, John.Funderburk@cosmo.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2020:

SUBCHAPTER 1. GENERAL PROVISIONS

175:1-1-2. Definitions

The terms and phrases defined in the Oklahoma Cosmetology Act shall have the same meaning when applied in the rules which are herein set forth in this Chapter to substantiate the Cosmetology and Barbering Law. The following rules and terms shall have the same meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Cosmetology and Barbering Act.

"Apprentice" means a person who is engaged in learning the practice of cosmetology or barbering in a cosmetology or barber establishment. [Title 59 O.S. Section 199.1]

"Assigned practice or clinic work" means demonstrations and lesson practice in which services may be performed on patron, student or model on clinic floor in classroom for the benefit of student observation, notes, etc. The practice or demonstration shall be assigned by or with approval of the instructor in charge and materials/supplies used for the education demonstration are the responsibility of the school.

"Barber/Barber Stylist" means any person who engages in the practice of barbering.

"Barber Establishment" means an Establishment or place of business where one or more persons are engaged in the practice of barbering but shall not include barber schools or colleges.

"Barbering" means any one or combination of practices done upon the upper part of the human body for cosmetic purposes and when done for payment either directly or indirectly for the general public, constitutes the practice of barbering, to wit: shaving or trimming the beard or cutting the hair; giving facial or scalp massages or treatment with oils, creams, lotions or other preparations, either by hand or mechanical appliances; singeing, shampooing or applying lighteners or color to the hair, applying hair tonics; applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or upper part of the body, but excluding the application of makeup; and removing superfluous hair from the face, neck or upper part of the body.

"Barber school or college" means an Establishment operated for the purpose of teaching barbering.

"Board" means the State Board of Cosmetology and Barbering.

"Clean" means removal of surface and/or visible debris by using soap, detergent or chemical "cleaner", followed by a clean water rinse.

"Clock hour" means a measure of time determined to be sixty (60) minutes that a student spends in an educational or training activity.

"Contact time" means the amount of moist contact time required for a disinfectant to be effective against the pathogens on the label. Clean items or surfaces must remain completely immersed or visibly wet (sprays, wipes) for full contact time to be effective.

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

Permanent Final Adoptions

"Cosmetician" means a person licensed by the Board to perform patron services limited to hair arranging and application of make-up, including, but not limited to using hairstyling tools and products. Services must be performed in a licensed establishment.

"Cosmetologist" means any person who engages in, follows or performs any of the practices of cosmetology.

"Cosmetology" means any one or combination of practices generally and usually performed by and known as the occupation of beauticians, beauty culturists, beauty operators, cosmeticians, cosmetologists, or hairdressers, or any other person holding himself or herself out as practicing cosmetology by whatever designation and within the meaning of the Oklahoma Cosmetology and Barbering Act and in or upon whatever place or premises. Cosmetology shall include, but not limited to, any one or combination of the following practices: bleaching, cleansing, curling, cutting, coloring, dressing, removing, singeing, styling, waving or similar work upon the hair of any person by any means, whether with hands or mechanical or electrical apparatus or appliances. Nothing in the Oklahoma Cosmetology and Barbering Act shall be construed to prohibit the use of hands or mechanical or electrical apparatus or appliances for the non-permanent removal of hair from the human body without puncturing of the skin or the use of stimulating exercising, beautifying or similarly working the scalp, face, neck, arms or the manicuring of the nails of any person, exclusive of such of the foregoing practice as are within the scope of practice of the healing arts as provided by law.

"Cosmetology Establishment" means an Establishment or place of business where one or more persons are engaged in the practice of cosmetology but shall not include barber schools and colleges.

"Cosmetology or Barber school" means a school or department that is approved by the Board to conduct and provide cosmetology and/or barber training and education in Oklahoma. It means any place or premises where instruction in any or all the practices of cosmetology and or barbering are given. Any person, firm, institution or corporation, who holds himself, firm, institution or corporation who shall teach and train any other person or persons in any of the practices of cosmetology and/or barbering is hereby declared to be engaged in operating a cosmetology and/or barbering school, and shall be operating cosmetology and/or barbering school, and shall be subject to the provisions of the Oklahoma Cosmetology and Barbering Act. Licensed cosmetology and barbering schools may offer education to secondary and post secondary students in this state.

"Credit hour" means a unit of value awarded to a student for successful completion of a program, course or course lesson and credit to clock ratio is as recognized by the United States Department of Education or a regional or national accreditation entity recognized by the United States Department of Education.

"Demonstrator" means a person who is not licensed in this state as a Cosmetologist, Barber or Instructor and who demonstrates any cosmetic preparation. The person shall be required to obtain a Demonstrator license from the Board before making any such demonstrations.

"Disinfect" means the process of making a non-porous item safe for use. Requires the use of a chemical intended to kill or denature a bacteria, virus or fungus. Proper disinfection requires adherence to manufacturers label with regard to concentration and contact time. UV light is not acceptable disinfection.

"Dry sanitizer" means a clean, dry, closed (covered) cabinet, drawer, chest or other type container used in a cosmetology/barber establishment or school for the purpose of storing clean, dry disinfected combs, brushes and other implements without fumigant after the articles have been cleaned and disinfected in a wet sanitizer (or by other approved method in the case of metal implements).

"Emergency circumstances" means a serious injury, illness or death in the immediate family of applicant for registration, examination, licensure, etc.

"Establishment" means a place or premises, cosmetology salon or barber shop, cosmetic or other specialty shop/salon where any one or combination of cosmetology or barbering practices are performed on the public except that the term shall not include a cosmetology or barbering school.

"Esthetician/Facialist/Facial Operator" means a person licensed by the Board to perform skin care, make-up and hair removal services to the public provided the hair removal services shall not include electrolysis.

"Facial/Esthetics Instructor" means a person licensed by the Board as a qualified teacher of the art and science of skin care theory and practice.

"Hairbraiding Technician" means a person certified by the Board to perform hairbraiding, hairweaving techniques, and hair extensions in a licensed cosmetology establishment.

"Hybrid learning" means courses that combine face-to-face classroom instruction with on-line computer based learning.

"Manicurist/Nail Technician" means a person licensed by the Board to perform nail care services to the public in a place licensed by the Board where nail care/manicuring/pedicuring services may be performed.

"Manicurist/Nail Technician Instructor" means a person licensed by the Board as a qualified teacher of the art and science of nail technology theory and practice.

"Master Barber Instructor" means a person licensed by the Board who gives instruction in barbering or any practices thereof and trained in a school after November 1, 2014.

"Master Cosmetology Instructor" means a person licensed by the Board as a qualified teacher of cosmetology theory and practice.

"Mobile Establishment" means a specialty Establishment that is operated in a self-contained, self-supporting, enclosed mobile unit.

"Non-Porous" means material that has no pores and does not allow for liquids to be absorbed or pass through. Common non-porous materials include glass, metal and plastic.

"Post secondary institution" means a school licensed to teach students according to prescribed curriculum as in Title 59 O.S. § 199.7 (F) 1 Board rule 175:10-3-34(a).

"Porous" means material that has minute spaces or holes through which liquid or air may pass.

"**Secondary institution**" means a school licensed to teach students eligible for credit for 500 hours of related subjects as prescribed in Title 59 O.S. § 199.7 (f)2 and in Board rule 175:10-3-34(b).

"**Sterilize**" means the eradication of all microbial life through the use of heat, pressure, steam or chemical sterilant.

"**Student**" means a person who is enrolled in a cosmetology or barber school and appropriately registered with the Board for the purpose of being educated and trained in the practice of cosmetology or barbering.

"**Unassigned practice or clinic work**" means a personal service of cosmetology or barber practice (on student on another etc.); which shall be elective practice which one student chooses to perform or to receive (routine shampoo not included); and in which school supplies may be used (i.e. bleach/color/perm, etc.); and which practice and service is not assigned by the instructor and/or performed for the benefit of a group of students who have been scheduled to observe as a classroom or clinic demonstration; and for which a reasonable cost for supplies used in the practice may be charged to the student receiving the unassigned services.

"**Wet sanitizer**" means a large, pan-type covered container which shall contain a liquid chemical disinfecting agent used in a school or Establishment for the purpose of disinfecting combs, brushes and other non-metal tools and implements used in training and practice.

SUBCHAPTER 5. RULES OF PRACTICE

175:1-5-15. Schedule of fines

(a) The fine schedule for citations or final orders issued by the Board for violations of the Cosmetology and Barber Act or rules promulgated there under shall be subject to the fines as follows providing each day a violation continues shall be a separate offense:

- (1) Engaging in cosmetology or barbering in any of the licensed practices without a license
 - (A) First: \$250
 - (B) Subsequent: \$500
- (2) Employing an unlicensed person to perform cosmetology or barbering (per person):
 - (A) First: \$250
 - (B) Subsequent: \$500
- (3) Failure to comply with a specific provision of the Cosmetology and Barber Act or rules by an individual not licensed under the Act:
 - (A) First: \$250
 - (B) Subsequent: \$500
- (4) Operate a cosmetology or barber school without first obtaining a license from the Board:
 - (A) First: \$250
 - (B) Subsequent: \$500
- (5) Failure to comply with sanitation standards established by the Board.
 - (A) First violation: Warning
 - (B) Second violation of the same standard: \$50

(b) If the citation is paid prior to hearing date, the citation is still considered part of the licensee's permanent record but dismissed. After three fines, the Board may consider suspension or revocation of a license, or other disciplinary action, after full Board hearing.

[OAR Docket #20-643; filed 7-17-20]

**TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING
CHAPTER 10. LICENSURE OF COSMETOLOGISTS, BARBERS, SCHOOLS AND RELATED ESTABLISHMENTS**

[OAR Docket #20-644]

RULEMAKING ACTION:
PERMANENT final adoption

- RULES:**
- Subchapter 1. General Provisions
175:10-1-3. [NEW]
 - Subchapter 3. Licensure of Schools
Part 1. Initial School Licensing
175:10-3-1 [AMENDED]
 - Part 7. General Operations and Licensing Requirements
175:10-3-67 [AMENDED]
 - Subchapter 5. Licensure of Cosmetology and Barber Establishments
175:10-5-1 [AMENDED]
 - Subchapter 13. Reciprocal and Crossover Licensing
175:10-13-1 [AMENDED]
175:10-13-2 [AMENDED]

AUTHORITY:
59 O.S. § 199.3(B)(1) and § 199.7; State Board of Cosmetology and Barbering

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 29, 2020

COMMENT PERIOD:

February 15, 2020 to March 20, 2020

PUBLIC HEARING:

March 20, 2020

ADOPTION:

March 23, 2020

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 28, 2020

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 25, 2020

FINAL ADOPTION:

June 25, 2020

EFFECTIVE:

September 11, 2020

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed new rules in subchapter 1 are necessary to comply with 2019 Session Law, ch. 363, sec. 1 (HB 1373) as codified at 59 O.S. § 4000.1, and 2019 Session Law, ch. 363, sec. 9 (HB 1373), amending 59 O.S. § 199.11. The rules establish a procedure by which the Board will adopt a list of crimes that could disqualify an applicant from licensure or certification by the Board. The rules also provide a procedure by which a person may seek an initial determination as to whether the person's criminal history would disqualify the person from licensure or certification.

The proposed rules in subchapter 3 state that cosmetology and barbering schools shall be inspected at least once a year in order to qualify for license renewal. The rules also remove the requirement that a school's bond cover

Permanent Final Adoptions

substitute teachers. The rules further allow a student to relinquish pending hours and withdraw from a school in order to enroll in a different school.

The proposed rules in subchapter 5 require that the reprint fee be paid within ten days of a request for a reprinted license when the establishment changes address.

The proposed rules in subchapter 13 allow temporary permits to be issued to out-of-state reciprocity applicants. The rules also allow twelve hundred (1200) crossover over hours for licensed barbers seeking licensure as a cosmetologist and cosmetologists seeking licensure as barbers.

CONTACT PERSON:

John Funderburk, Oklahoma, State Board of Cosmetology and Barbering.
Tel. 405-522-7616, John.Funderburk@cosmo.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2020:

SUBCHAPTER 1. GENERAL PROVISIONS

175:10-1-3. Disqualifying criminal history and opportunity for initial determination

(a) Pursuant to 59 O.S. § 4000.1, the Board of Cosmetology and Barbering shall adopt a list of felony crimes that could disqualify a person from holding a license or certification under the Oklahoma Cosmetology and Barbering Act (59 O.S. § 199.1 - 199.15). The Board shall adopt the list at its first meeting of the fiscal year and may modify the list as needed to protect public health and safety.

(b) A person who has been convicted of a crime on the list may at any time, including before obtaining any required education or applying to sit for any necessary examination, request an initial determination as to whether the person's criminal history would potentially disqualify the individual from licensure or certification in Oklahoma. The request shall be in writing and shall include either a copy of the person's criminal history record or a statement describing each conviction including the date of conviction, the court of jurisdiction, and the sentence imposed. The person may submit any additional information including, but not limited to, the person's current circumstances, the length of time since the completion of any sentence, including probation, evidence of rehabilitation, and testimonials or personal reference statements, as well as the person's professional aspirations.

(c) Upon receipt of a written request for consideration of a person's criminal history record, the Executive Director and the Chair of the Board of Cosmetology and Barbering, in consultation with Board legal counsel, shall evaluate the request and make an initial determination based upon the information provided. A notice of initial determination shall be issued within sixty (60) days from the date the request was received. If the person is not satisfied with the response, the person may request that the matter be placed on the agenda of the Board's next regularly scheduled meeting.

(d) The notice of initial determination shall be in writing and mailed to the requestor at the address provided in the request, and shall contain the following statements:

(1) Whether the person appears eligible for licensure or certification at the current time based upon the information submitted by the requestor;

(2) Whether there is a disqualifying offense prohibiting the person's licensure or certification at any time and a statement identifying such offense in the criminal history record or information submitted for consideration;

(3) Any actions the person may take to remedy what appears to be a temporary disqualification, if any;

(4) The earliest date the person may submit another request for consideration, if any; and

(5) A statement that the notice of initial determination is only an initial determination for eligibility for licensure or certification based upon the information provided by the requestor. Additional information or intervening events may result in a different final determination

SUBCHAPTER 3. LICENSURE OF SCHOOLS

PART 1. INITIAL SCHOOL LICENSING

175:10-3-1. Application for initial and renewal of school license

In order to be in compliance with current Cosmetology and Barbering Act as pertains to public and privately owned cosmetology and barber school and license issuance to cosmetology and barber schools, the application procedures for an initial (new) cosmetology and barber school are as follows:

(1) **Privately owned schools.** Any person, corporation or company, who proposes to provide cosmetology or barber training courses designed to qualify persons who complete courses for a professional license to practice cosmetology or barbering, shall be required to obtain a license for the private post secondary school from the Board.

(A) **Letter of intent.** The applicant shall first submit a letter of intent to the Board of Cosmetology and Barbering and shall request Cosmetology or Barber School license application forms from the Board. The letter of intent shall state at least the full name, address and phone number of the applicant and the city where the proposed school is to be located. If the applicant proposes to assume ownership of an existing school, the letter of intent shall specify the name and address of the existing school.

(B) **Application form.** The license application form shall be completed in full making note whether the school intends to operate as a secondary/post secondary establishment and returned to the Board and shall contain the following information:

(i) Proposed name and location (city, street and number), and a brief description of the building.

(ii) Name, address and phone number of the proposed owner(s). If a corporation, the name, address and phone number(s) of the officers and

principal stockholders are required to be submitted.

(iii) Names of Oklahoma license held and the file numbers of the persons to be the instructors of the proposed school and that of the manager, if other the owner.

(C) **Initial license fee; expiration date.** Each initial public and privately owned cosmetology or barber school shall be required to pay to the Board, the initial license fee of \$400.00. Each public and privately owned school shall also pay the annual license renewal fee of \$125.00. Each school license shall expire annually on June 30th. No provision is made for pro rata of any license fee. A school must be inspected at least once each year in order to be eligible for renewal.

(D) **Surety bond.** A surety bond in the amount of two thousand dollars (\$2,000.00) for the first instructor and one thousand dollars (\$1,000.00) for each additional instructor is required to be submitted for cosmetology or barber school license. The bond shall be in an amount sufficient to meet bonding requirements for all staff ~~instructors and for each substitute instructor for the specific school in which license application is made.~~

(E) **Financial statement.** A current financial statement of the license applicant, prepared by a Public Accountant or a Certified Public Accountant, is required to be submitted to the Board. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall reflect the applicant's total property inventory, assets and liabilities which shall show a net worth of at least one hundred thousand dollars (\$100,000.00) for each school owned. Intangible assets will not be considered in net worth.

(F) **Proof of building lease or ownership.** Applicant must obtain a lease of at least one year or be owner of building in which school is proposed to operate. Month to Month lease is not acceptable. Applicant must submit a copy of lease agreement.

(2) **Public schools.** Any public school wherein administrator or other authorized person proposed to provided course(s) in training and education designed to qualify a person who shall complete the public post secondary course(s) for examination and licensure, shall follow instructions for license application procedures in (1) of this Section as may be applicable in requesting school license application and approval from the Board.

(A) Names, address and phone number(s) of Public School Administrator and other supervisory person (Principal, Assistant Principal, Coordinator or Counselor), of school/department and of each instructor proposed to teach in the school shall be submitted to the Board. File number of the instructor(s) shall be submitted.

(B) Applicant shall provide to the Board a notarized affidavit stating source of sufficient bond

coverage and that building wherein the school is proposed to be conducted is publicly owned.

(C) Applicant shall provide phone numbers of public school main campus and school facility and a brief general description of the facility location within campus and other building training sections and parking areas.

(3) **Privately owned school license renewal.** A privately owned school license shall expire annually on June 30th. Renewal must be received by June 30th each year.

(A) Private school license renewal application, forms and instructions are mailed annually to schools by the Board. Forms include a surety bond renewal form, power-of-attorney and verification form.

(4) **Public school license renewal.** A public school license shall expire annually on June 30th. Renewal must be received by June 30th each year.

(A) Public school license renewal application and invoice is mailed annually to schools.

(B) Fee of \$125.00 is required for school license renewal.

(5) Any advertisement for recruitment of students must state school is proposed to be open and shall not contain deceptive or misleading language and shall state that school has applied for licensure.

PART 7. GENERAL OPERATIONS AND LICENSING REQUIREMENTS

175:10-3-67. Student re-registration fee and transfer process

(a) **Student re-registration.** Each time a student registers, re-registers, or transfers, in addition to other requirements, the registration fee of \$5.00 must be submitted to the Board with registration application.

(b) **Student transfer.** An affidavit, signed by official of transferring school must be received by the Board within five (5) days of termination provided tuition is paid in full according to contractual agreement. A notarized affidavit submission is notification to the Board that tuition has been paid in full to the school the student is transferring from.

(c) **Student withdrawal.** A student who withdraws from a school and relinquishes any pending hours shall notify the Board prior to registering in another school.

(ed) **Out-of-state student transfer.** A student may transfer out-of-state hours provided the student submits the necessary proof of training to the Board for evaluation. Necessary papers will be forwarded upon request. The reciprocity processing fee for transfer of out-of-state hours is \$30.00.

SUBCHAPTER 5. LICENSURE OF COSMETOLOGY AND BARBER ESTABLISHMENTS

Permanent Final Adoptions

175:10-5-1. Cosmetology and barber Establishment license application; authorization open to pending first inspection

- (a) The Board will issue an Establishment license upon receipt of application for license, appropriate fee and notarized affidavit of applicant which reflects compliance with all Establishment license requirements. Initial inspection will be conducted to confirm compliance of license requirements.
- (b) In the event the Establishment should fail to be approved at initial inspection, the Establishment may be required to close and cease to provide services to the public until applicant/establishment shall be in compliance of all license requirements.
- (c) When the ownership of an Establishment changes, it will be considered a new Establishment and shall be required to comply with requirements for initial Establishment license.
- (d) Establishment owner is required to submit a Establishment change of location affidavit when the location of a Establishment changes. ~~No fee is required unless a new license with new address information is requested.~~ A \$5 fee is required within 10 days of change for reprint of license with new address.
- (e) Establishment owner is required to submit a Establishment name change affidavit when the Establishment name changes. ~~No fee is required unless a new license with new Establishment name is requested.~~ A \$5 fee is required within 10 days of change for reprint of license with new name.

SUBCHAPTER 13. RECIPROCAL AND CROSSOVER LICENSING

175:10-13-1. Reciprocal license requirements

The Board, in accordance with the Oklahoma Cosmetology and Barbering Statutes 59 O.S. Section 199.13, has ruled to accept any applicant for applicants from other states in accordance with the following requirements:

- (1) The applicant for license as a cosmetologist, manicurist, facialist, or barber:
- (A) must have met the requirements for the same licensure in another state
 - (B) must hold a current license from another state as verified by a valid certification
 - (C) must have successfully passed Oklahoma's state rules, regulations and law test administered by the Board
- (2) If an applicant for a license as a cosmetologist, manicurist, facialist, or barber is from another territory, province, or foreign county that does not issue a license after required occupational training, but can provide sufficient proof that he or she has continuously engaged in the practices or occupation at issue in the reciprocity license application for at least three years immediately prior to such application, the Board may approve the reciprocity license if there is sufficient proof that applicant has at least an eighth grade education, and the applicant has passed Oklahoma's state rules, regulations and law test administered by the Board.

(3) If an applicant for a license as an instructor is from another territory, province, or foreign county, that does not issue a license after required occupational training, but can provide sufficient proof that he or she has continuously engaged in the practices or occupation at issue in the reciprocity license application for at least three years immediately prior to such application, the Board may approve the reciprocity license if there is sufficient proof that applicant has at least a high school education, and the applicant has passed Oklahoma's state rules, regulations and law test administered by the Board.

(4) Any non-English speaking reciprocity licensee or transfer of hours applicant, and transfer of hours applicant must contact the Board's office concerning requirements for licensing and transfer of hours.

(5) After the application is complete, all required documents are attached, and the application is filed, each applicant for reciprocity license must make an appointment and appear personally in the Board's office for an interview before the reciprocity license may be considered.

(6) The applicant from a foreign country, territory or providence may be required to provide evidence that documents have been certified as valid by a creditable agency as recognized by the Board. Validation of documents is at applicant's expense.

(7) No temporary permit shall be issued to an ~~out-of-state or~~ foreign reciprocity applicant.

175:10-13-2. Credit allowed for barber/cosmetology crossover training

(a) A barber who holds a current Oklahoma barber license in good standing, who shall apply to register for the Board's examination for a Basic Cosmetologist license, shall be awarded 1200 hours and may be eligible to sit for the written examination upon showing proof of the completion of three hundred (300) hours of training in a cosmetology school. Training shall be in accordance with a curriculum and schedule approved by the Board and developed specific to Cosmetology techniques including manicuring, pedicuring and Cosmetology/Barber law. Training evaluation and curriculum is approved at time of enrollment in a cosmetology school.

(b) A cosmetologist who holds a current Oklahoma cosmetology license in good standing, who shall apply to register for the Boards examination for a Barber license, shall be awarded 1200 hours and may be eligible to sit for the written examination upon showing proof of the completion of three hundred (300) hours of training in a barber school. Training shall be in accordance with a curriculum and schedule approved by the Board and developed specific to Barbering techniques including shaving and clipper cuts and Cosmetology/Barber law. Training evaluation and curriculum is approved at time of enrollment in a barber school.

[OAR Docket #20-644; filed 7-17-20]

TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING
CHAPTER 10. LICENSURE OF COSMETOLOGISTS, BARBERS, SCHOOLS AND RELATED ESTABLISHMENTS

[OAR Docket #20-645]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 7. Sanitation, Disinfection and Safety Standards for Establishments and Schools

- 175:10-7-3 [AMENDED]
175:10-7-4 [AMENDED]
175:10-7-5 [AMENDED]
175:10-7-6 [AMENDED]
175:10-7-12 [AMENDED]
175:10-7-14 [AMENDED]
175:10-7-18 [AMENDED]
175:10-7-25 [AMENDED]
175:10-7-28 [AMENDED]
175:10-7-29 [AMENDED]
175:10-7-30 [AMENDED]
175:10-7-31 [REVOKED]
175:10-7-33 [NEW]
175:10-7-34 [NEW]

AUTHORITY:

59 O.S. § 199.3(B)(1) and § 199.7; State Board of Cosmetology and Barbering

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 29, 2020

COMMENT PERIOD:

February 15, 2020 to March 20, 2020

PUBLIC HEARING:

March 20, 2020

ADOPTION:

March 23, 2020

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 28, 2020

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 25, 2020

FINAL ADOPTION:

June 25, 2020

EFFECTIVE:

September 11, 2020

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed rules clarify sanitation standards with regards to the storage or chemicals, waste disposal, the use of disinfectants, the use of towels and linens, the cleaning of pedicure bowls, and the proper use of hair and skin products. The rules clarify that service animals as defined in the Americans with Disabilities Act are permitted in schools and establishments. The new rules establish sanitation standards for makeup and eyelash extensions and waxing. A superfluous section is revoked. The proposed rules also contain clean-up language.

CONTACT PERSON:

John Funderburk, Oklahoma, State Board of Cosmetology and Barbering. Tel. 405-522-7616, John.Funderburk@cosmo.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2020:

SUBCHAPTER 7. SANITATION, DISINFECTION AND SAFETY STANDARDS FOR ESTABLISHMENTS AND SCHOOLS

175:10-7-3. Adequate ventilation/chemical safety

- (a) All rooms must have good ventilation adequate to quickly rid immediate premises of fumes from products (i.e. artificial nail products, bleach etc.) according to the city/state codes.
(b) Chemicals shall be transported and stored in accordance with the manufacture's label
(c) Chemicals must be stored in the original containers
(d) Chemicals must be stored in overhead cabinets or locked cabinets. They may not be stored in areas used by customers such as bathrooms.
(e) Chemicals may only be mixed and applied to customers specifically as instructed on manufacturer's label, including patch test.
(f) Chemicals must be discarded in accordance with manufacturer's label, local, state and federal rules.
(g) Chemicals shall not be mixed with any other substance unless expressly instructed on the label.

175:10-7-4. Furnishings; windows; ceilings; walls; floors

- (a) Furniture shall be of washable material and shall be kept clean. Breaks or cracks in furniture must be repaired immediately.
(b) Windows must be kept in a clean condition.
(c) Each work/styling station shall be provided with adequate light and fixtures which shall be kept in a sanitary and safe condition.
(d) Ceilings and walls shall be of an easily cleaned, smooth and unbroken surface.
(e) Curtains, partitions and wall hangings shall be kept clean at all times
(f) Floors in Establishments and schools shall be maintained in a clean manner.
(g) Carpet is prohibited for use in work areas (shampoo and styling areas) of an Establishment or school.
(h) Each work/styling station shall be provided with a waste container which shall be emptied and cleaned each day. There shall be 1 covered trash container for:
(1) every two chairs in a salon or barbershop.
(2) each room used for services (e.g. waxing, massage etc.).
(3) each nail station
(4) between every 2 pedicure chairs
(5) each restroom, dispense area and any break room where food is prepared.
(i) Trash containers must have solid sides and liners should be used. Trash containers must be emptied when full.

175:10-7-5. Disinfectants required for use in schools and related establishments

- (a) Every precaution shall be taken to prevent infection by disinfecting all tools.

Permanent Final Adoptions

- (b) All items shall be cleaned and disinfected by removing all visible debris from an item or surface by using soap/water or a cleaning agent.
- (c) Items shall be rinsed thoroughly in plain water.
- (d) Items shall be placed in a wet sanitizer, which is a large, pan-type container which may be of plastic, enamel, stainless steel, or rubber and shall be fully immersed in an EPA approved disinfectant prepared according to manufacturer's directions.
- (e) For immersion the items must stay completely immersed for full contact time according to manufacturer's instructions.
- (f) For spray, place clean item on clean surface and spray with disinfectant until thoroughly saturated. Ensure that all surfaces of item stay visibly moist for full contact time listed on the label for all pathogens listed on the label to be effectively destroyed.
- (g) For EPA registered wipes - wipe all surfaces and ensure that all surfaces remain visibly moist for full contact time listed on the label.
- (h) Combs may be disinfected in a cylinder jar by immersing in an EPA approved disinfectant prepared according to manufacturer's directions. The combs must stay immersed for full contact time according to manufacturer's directions.
- (~~h~~) If an autoclave is used to sterilize items after disinfection, in order to destroy all microbial life (including spores), periodic testing and maintenance must be performed on system according to manufacturer's instructions.
- (~~g~~) All disinfected items must be stored in a dry/closed cabinet, drawer, or other closed/covered/light type container without fumes.

175:10-7-6. Disinfecting agents and procedures for use in schools and related establishments

- (a) Disinfectants for use by Establishments and schools shall be used only if registered with the Environmental Protection Agency (EPA) for use as a disinfectant to achieve its intended purpose in accordance with the product label.
- (b) To disinfect and minimize corrosion of metal instruments, immerse and wipe thoroughly with an EPA approved disinfectant or spray with approved oil base disinfectant and store in a cabinet or closed container free from contamination between use and service for each patron.
- (c) All disinfectants must be mixed as directed on the manufacturer's label.
- (d) All disinfection immersion liquid must be changed daily or sooner if visibly contaminated.
- (e) All disinfectant containers must be covered at all times.
- (~~f~~) All customer contact items, including neck rests, arm rests and seats, must be cleaned and disinfected between customers.
- (g) A manufacturer's label for all disinfectant concentrate must be available at all times. If concentrate bottle is emptied, it must remain available until a new bottle is available.
- (h) When disinfectant is placed in a secondary container such as a spray bottle, tub or jar, that container must be labeled to indicate what chemical is in the container.
- (i) Disinfectant must be disposed of in accordance with all local, state and federal requirements.
- (~~j~~) UV light boxes for sanitation purposes are prohibited.

(~~k~~) Any products banned by the FDA shall not be used for any cosmetology/barbering service.

(l) Disinfecting electrical items with plastic/metal guards, clipper blades, drill bits and any metal or nonmetal removable parts must be removed, cleaned and disinfected by first removing all visible debris. Use EPA registered spray or wipe disinfectant as instructed on manufacturer's label for full contact time. Allow to air dry. Tool housing must also be disinfected. Store in a clean place such as a stand, hook or on a clean towel and covered by a clean towel.

(m) Shears and razors must be wiped to remove visible debris and disinfected with an EPA-registered disinfectant, spray or wipe after each use. The surface must remain wet for the full contact time listed on the disinfectant label.

(n) Once properly cleaned and disinfected, all multi-use items must be stored in a clean, covered container marked "clean" or "disinfected".

(o) Disinfectant Options

(1) EPA registered bactericidal, virucidal and fungicidal disinfectant that is approved for use in beauty salon, salon, barber or spa settings, following instruction label for dilution ratio and contact time

(2) EPA registered Sodium Hypochlorite 5.25% or higher (household/disinfecting bleach) with instructions for disinfection, diluted as instructed on the label and observing a 5-minute contact time. Bleach must be active (not expired) with a manufacture date of less than 6 months prior to use.

175:10-7-12. Towels/linens

- (a) Clean towels shall be used for each patron.
- (b) Clean towels and other linens shall be kept in a closed container, cabinet or drawer that is free from contamination.
- (c) A suitable hamper-type container shall be provided for soiled towels.
- (d) The headrest of the facial chair shall be covered with a clean towel for each patron.
- (e) An appropriate supply of clean towels, linens and neck strips shall be maintained in the Establishment.
- (f) All linens (towels, sheets, robes, etc.) cannot be re-used and must be laundered prior to use.
- (g) Linens shall be washed on hot with detergent and dried until "hot to the touch".
- (h) There shall be 1 vented, covered container provided for soiled linens (towels, capes, sheets) in salons, barber shops spa and nail salons and each individual room used for services and any customer changing area.
- (i) Containers for used linens must be covered and have vented sides to reduce the growth of pathogens.
- (j) Towel warmers must be disinfected daily with a disinfectant wipe or spray.
- (k) Salons using hot steamed towels in services must meet these requirements:
 - (1) Towels used in a warmer must be washed with detergent and bleach and dried using a hot dryer setting.
 - (2) Practitioners preparing towels for the warmer must first wash their hands or wear gloves.

(3) Wet towels used in services must be prepared fresh each day. At the end of the day, unused steamed towels must be removed and laundered.

(4) Towel warmers must be left open overnight to allow unit to dry completely.

175:10-7-14. Manicuring station and equipment; methyl methacrylate (MMA) prohibited

(a) Manicuring station and equipment shall be kept in a clean and disinfected condition at all times.

(b) Manicuring bowls, brushes, and other washable items shall be cleaned and disinfected after each use and shall be kept in a closed area, free from contamination, when not in use.

(c) Manicuring instruments, tweezers, and other non-metal implements shall be cleaned and disinfected. Implements shall be sanitized using an EPA registered product. Disinfected implements shall be stored in a sealed plastic bag or must remain in a dry closed/covered/light drawer, cabinet or box-type container until ready for use on next patron. At least two (2) sets of manicuring implements shall be maintained for each practicing manicurist in order that one set is appropriately disinfected for use on each patron.

(d) Hot oil or lotion manicuring units shall be maintained in a safe, clean and disinfected condition. A disposable type liner shall be used in unit cup to hold lotion. The used liner and oil or lotion shall be disposed of immediately after use and shall not be reused.

(e) Maximum precautionary, safe, disinfection and appropriate preparation and application shall be observed in sculptured nails, tips, and other artificial nail procedures. Each licensee shall be knowledgeable and alert to nail diseases and potential health hazards which may be present before or after artificial nail application. If evidenced prior to service, the licensee shall not proceed with application. If infection or other condition of disease is evidenced after application, the patron shall be referred to a physician or health clinic for appropriate treatment. No further manicuring services shall be performed until hands, nails, and/or fingers are free and clear of the disease or infection.

(f) Each licensee shall be knowledgeable of product ingredients. If not listed on the product, the manufacturer should be contacted for content information. The use of methyl methacrylate (MMA) is prohibited.

(g) Metal drill bits may be soaked in acetone to remove nail product. When removed from the acetone they must be washed using a brush and soap/water, then rinsed prior to immersion in disinfectant. Bits must remain in disinfectant for full contact time.

175:10-7-18. Disinfection precautions before and after each patron service

(a) The hands of the licensee, student or apprentice shall be washed and the integrity of the skin carefully examined before and after performing a service for any person. If any abrasion, cut, scratch, open lesion or infection is evidenced, protective or disposable gloves shall be worn while performing

services in order to reduce risk or transmission of infectious bacteria/virus/disease.

(b) All licensees are required to wash hands prior to any service, following eating, smoking or the use of the restroom. Hands must be washed with running water and soap and then dried with a disposable towel. Antibacterial soap is not recommended.

(c) Styptic pencils and lump alum are prohibited. Liquid or powdered astringent shall be used to check bleeding and shall be applied with separate, clean, sterile gauze or cotton which shall be disposed of immediately after use.

(ed) Any licensee who can reasonably anticipate, as the result of performing any cosmetology or barbering service, contact with blood and other potentially infectious material, shall use universal precautions, and shall wear protective disposable gloves while performing the services. Gloves shall not be re-used and shall be disposed of properly immediately after use.

(de) Implements and tools that cannot be disinfected must be disposed of after one use.

175:10-7-25. Animals, birds, pets prohibited in schools and related Establishments

Animals, birds, and/or other pets shall be prohibited in an Establishment or school, ~~unless otherwise provided by law.~~ The use of fish or other animals in performing a cosmetology/barbering service in an Establishment or school, including but not limited to fish pedicures is prohibited. The prohibition in this section shall not apply to a service animal as defined in the Americans with Disabilities Act (P.L. 101-336) as amended.

175:10-7-28. Product use, knowledge and procedures

(a) All licensees shall be held individually liable for product knowledge. Maximum precautionary, safe, disinfection and appropriate preparation prior to service and application, as required by product label, shall be practiced at all times upon the public. For products that contain a requirement for a patch test, licensees may provide a consumer advisory that is clearly visible in the area of the application, or provide the client with a printed fact sheet with information that describes the label requirement for the patch test, or utilize a signed statement of release of liability regarding the patch test warning.

(b) All products removed from a multi-use container such as a tub or tube, must be done so in a manner that the remaining product in the container is not contaminated.

(c) Products such as pomades, wax and gels must be removed with a single use spatula that is disposed of immediately after a single use or a disinfected multi use spatula. Fingers may not be used to remove product.

(d) Powders and lotions may be dispensed from a shaker or pump ensuring that the licensee's or client's hands never touch the dispensing portion of the container.

175:10-7-29. Facial procedures, devices and equipment

(a) Licensees are prohibited from performing facial procedures using cosmetic exfoliating substances or devices that

Permanent Final Adoptions

effect more than the top layer (stratum corneum) or outer most layer of dead cells on the skin. Procedures which use any cosmetic exfoliation substance or device to remove viable (living) skin below the stratum corneum are deemed beyond the scope of practice of persons and Establishments licensed by the Board of Cosmetology and Barbering.

(b) Cosmetic exfoliating substances may include alpha hydroxyl acids (glycolic and lactic acids), beta hydroxyl acids, salicylic acid, Jessner's solutions, resorcinol and other substances intended to affect no more than the stratum corneum.

(c) Cosmetic exfoliating devices may include FDA (U.S. Food and Drug Administration) registered and/or approved devices, provided that such devices affect no more than the stratum corneum.

(d) Invasive procedures which ablate or destroy, remove, or make an incision or pierce the skin beyond the stratum corneum is prohibited.

(e) Roll on wax products are prohibited.

(f) Superficial exfoliation treatments on the stratum corneum using commercially available products and devices used in accordance with manufacturer's written instructions.

(1) Only the stratum corneum may, by any method or means, be removed, and then only for the purpose of improving the appearance of the skin.

(2) Skin removal techniques and practices which result in destruction of living tissue beyond the stratum corneum layer of skin is prohibited.

(g) Use of esthetic devices approved by rule, that are intended to be used for cosmetic skin care purposes, beautifying, and improving the appearance of the skin. Including but not limited to:

(1) galvanic current

(2) High frequency

(3) Mechanical brushes

(4) Vacuum spray devices

(5) Steamers

(6) Micro current devices

(7) Microdermabrasion devices

(8) Low Level radio frequency devices

(9) Light emitting Diode devices

(h) Extraction techniques including but not limited to: Metal extractor tool

(i) Esthetic devices must be commercially available and be operated within manufacture written guidelines and be FDA registered if required under 201 (h) of the Federal Drug and Cosmetic (FD&C) Act and may not fall within class 3 designation.

175:10-7-30. Pedicure equipment and procedures for cleaning and disinfecting after each client use

(a) Pedicure equipment is a unit that holds water for a pedicure service, including whirlpool spas, 'pipe-less' units, footbaths, basins, tubs, sinks and bowls which shall be cleaned by scrubbing surface with a brush, using an enzymatic or surfactant detergent (soap) and water. After cleaning, pedicure equipment, tools and implements shall be disinfected by using an EPA-registered disinfectant as prescribed in Board rule

~~175:10-7-6. Board rules regarding the cleaning and disinfecting of cosmetology tools and implements apply to all tools and implements used for pedicures. The Board recommends the use of NIC approved "Cleaning and Disinfecting of Circulating and Non-Circulating Tubs and Spa's For All Industry Modalities".~~

(b) All pedicure bowls must be cleaned and disinfected prior to each use by the following method:

(1) Empty pedicure bowl

(2) Remove all removable parts - clean with soap/detergent and water, rinse and immerse in EPA registered disinfectant following manufacturer's directions for proper contact time.

(3) Scrub tub with soap/detergent and rinse

(4) Replace removable cleaned and disinfected parts

(5) Fill tub and add EPA registered disinfectant to achieve proper concentration

(6) Allow to sit, or run through system (jetted tubs) for manufacturer's contact time

(7) Drain tub and air dry or wipe dry with a clean paper towel.

(c) Any item that cannot be properly cleaned and disinfected is considered single use and must be disposed of after single use. This includes, but is not limited to, all nail files/emery boards that are not made entirely of metal or glass, pumice stones, buffing blocks, orangewood sticks, cotton, toe separators, and flip-flops.

(d) Metal drill bits may be soaked in acetone to remove nail product. When removed from the acetone they must be washed using a brush and soap/water, then rinsed prior to immersion in disinfectant. Bits must remain in disinfectant for full contact time.

(e) Credo blades or any implement used to remove skin such as razors, cheese graters and rasp are prohibited.

175:10-7-31. Manicuring equipment [REVOKED]

The use of the credo-blade, rasp or knife is prohibited for use by licensees.

175:10-7-33. Make-up/Eyelash Extensions

(a) Make-up pencils that do not require sharpening, should not be used.

(b) Make-up pencils that require a sharpener, must be sharpened prior to each use

(c) Pencil sharpeners must be cleaned out and properly disinfected by immersion or spray with an EPA registered disinfectant after each use

(d) Disposable applicators must be used in the application of mascara

(e) Liquid foundation must be dispensed with a pump style bottle or removed from container without allowing mouth of container to be contaminated.

(f) Make up that is in a cake format should be scraped off onto a single use or disinfected surface, such as a palette for application.

(g) When make-up displays are accessible to the public, disposable applicators for all make-up must be readily available.

- (h) Eyelash extensions may only be performed by a licensed cosmetologist or esthetician
- (i) Tables/Beds/Chairs used during eyelash services must be covered by a:
 - (1) Disposable sheet/paper
 - (2) Non-Porous Plastic cover (disinfected between clients)
 - (3) Clean sheet or linen
 - (4) Disposable paper towel like product or hand sized towel may be used under the head of each new client.
- (j) Tray Barrier - a fresh/new disposable barrier such as a paper towel will be used on tray or counter space on which items for clients replaced before each service begins.
- (k) Mask will be worn properly over both nose and mouth during eyelash service.
- (l) Forehead Barrier - disposable, single use or freshly laundered forehead barrier must be used.
- (m) Lash use and Storage
 - (1) Lashes must be stored in covered container
 - (2) Once lashes are removed from original container, they cannot be placed back in original container and may not be used on another client and may not be stored for later use of same client.
 - (3) Any cutting implement used to cut lashes into sections (to render lash strips on time use) must be disinfected and stored in covered container.
 - (4) Glue stones, lash tiles, lash pallets and like items used to pull lasses from during service, must be disinfected between clients.
- (n) De-tacking tape used for taping back eye lid skin or lashes cannot be de-tacked on skin. De-tacking must be done on a clean towel.
- (o) Any nozzle or dropper used for rinsing or flushing the eye during the service cannot come in direct contact with the eye or skin.
- (p) Make up application on the face and beautifying lashes and brows with the use of commercially available products use in accordance with manufacturer written instructions, include but not limited to:
 - (1) Lash extension application
 - (2) Lightening hair on the body except the scalp
 - (3) Temporary tattoo application, i.e. henna, crystals.

175:10-7-34. Waxing

- (a) Roll on wax is prohibited
- (b) Wax pots must remain covered and free from debris when not in use
- (c) Wax may be removed for use by one of the following methods:
 - (1) Single use spatula disposed of after a single dip/application
 - (2) Disinfected plastic spatula - new spatula for each dip into the pot
 - (3) Removal of wax needed for entire service into a single use, disposable cup. Only in this circumstance may the same applicator(s) be used for the entire service. Cup (including all remaining wax) and applicator(s) must be

disposed of immediately after use. Remaining wax may not be put back into the pot.

- (d) If wax becomes contaminated or has visible debris, pot must be emptied and disinfected. No wax may be re-used - only new wax may be used in the pot.
- (e) Area to be waxed must be cleaned with antiseptic wipe prior to service to reduce the risk of infection.
- (f) Waxing of nasal hair is prohibited
- (g) Paraffin wax must be portioned out for each client in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply. All portions used on a client must be disposed of immediately following use.
- (h) Double dipping is expressly prohibited - HPV and HSV can both be easily transmitted in the wax pot environment.

[OAR Docket #20-645; filed 7-17-20]

**TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING
CHAPTER 20. MASSAGE THERAPY**

[OAR Docket #20-646]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. Licensure of Massage Therapists
- 175:20-5-1. Original Licensure [AMENDED]
- 175:20-5-2. Licensure by Reciprocity [AMENDED]
- 175:20-5-3. License renewal [AMENDED]
- 175:20-5-7. Disqualifying criminal history and opportunity for initial determination [NEW]

AUTHORITY:

59 O.S. § 199.3(B)(1) and § 199.7; State Board of Cosmetology and Barbering

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 29, 2020

COMMENT PERIOD:

February 15, 2020 to March 20, 2020

PUBLIC HEARING:

March 20, 2020

ADOPTION:

March 23, 2020

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 28, 2020

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 25, 2020

FINAL ADOPTION:

June 25, 2020

EFFECTIVE:

September 11, 2020

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The rules establish a procedure by which the Board will adopt a list of crimes that could disqualify an applicant from licensure or certification by the Board pursuant as required by 2019 Session Law, ch. 363, sec. 1 (HB 1373) as codified at 59 O.S. § 4000.1, and 2019 Session Law, ch. 363, sec. 73 (HB 1373), amending 59 O.S. § 4200.5. The rules also provide a procedure by which a person may seek an initial determination as to whether the person's criminal history would disqualify the person from licensure or certification in compliance with 59 O.S. §§ 4000.1 and 4200.5. The rules also clarify the

Permanent Final Adoptions

criminal history that an applicant must disclose in order to determine eligibility pursuant to 59 O.S. § 4200.5 and § 4200.11(A) and (B).

CONTACT PERSON:

John Funderburk, Oklahoma, State Board of Cosmetology and Barbering.
Tel. 405-322-7616, John.Funderburk@cosmo.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2020:

SUBCHAPTER 5. LICENSURE OF MASSAGE THERAPISTS

175:20-5-1. Original Licensure

(a) The Board may issue a license to practice massage therapy to a person who:

- (1) files a completed application on a form prepared by the Board;
- (2) submits satisfactory evidence in the form of a birth certificate, driver's license or other government-issued identification that the person is at least eighteen (18) years of age;
- (3) provides documentation that the applicant currently maintains liability insurance for practice as a massage therapist;
- (4) provides a certificate and certified transcript from a state-licensed massage school showing successful completion of at least five hundred (500) hours of formal education in massage therapy;
- (5) provides a certified copy of test scores showing the applicant has completed and passed the Massage and Bodywork Licensing Examination (MBLEx);
- (6) states under penalty of perjury in a manner prescribed on the application as to ~~whether the applicant has in any jurisdiction:~~

(A) whether the applicant has pleaded guilty, nolo contendere or been convicted of a felony crime other than a minor traffic violation in any jurisdiction; and

(B) ~~pleaded guilty, nolo contendere or been convicted of a misdemeanor involving moral turpitude or a misdemeanor involving an act of violence;~~

(C) ~~pleaded guilty, nolo contendere or been convicted of a violation of federal or state controlled dangerous substance laws whether the applicant has had a massage therapy license revoked in another jurisdiction or been the subject of disciplinary action in another jurisdiction.~~

(7) submits a current criminal history information report obtained from the Oklahoma State Bureau of Investigation.

(b) A criminal history background information report required by this section shall be current if dated no more than thirty (30) days prior to the date on which the applicant submits a completed application to the Board. The OSBI criminal

history background report shall include a search of the Department of Corrections Sex Offender Database and Violent Offender Database. All fees required for the criminal history background report shall be paid by the applicant.

(c) The Board may deny a license or impose probationary conditions if the applicant has

- (1) pleaded guilty, nolo contendere or been convicted of a felony that substantially relates to the practice of massage therapy or poses as reasonable threat to public safety;
- (2) ~~pleaded guilty, nolo contendere or being been convicted of a misdemeanor involving moral turpitude or a misdemeanor involving an act of violence;~~
- (3) ~~pleaded guilty, nolo contendere or being been convicted of a violation of federal or state controlled dangerous substance laws;~~
- (4) engaged in unprofessional conduct as described in this chapter that has endangered or is likely to endanger the health, welfare or safety of the public;
- (5) violated any provision of the Massage Therapy Practice Act or any rule of the Board; or
- (6) had a license revoked in another jurisdiction or been the subject of disciplinary action in another jurisdiction.

(d) As used in this section:

- (1) "Substantially relates" means the nature of criminal conduct for which the person was convicted, or to which the person pleaded, has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to massage therapy; and
- (2) "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted, or to which the person pleaded, involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in massage therapy.

175:20-5-2. Licensure by Reciprocity

(a) The Board may issue a license by reciprocity to a person who:

- (1) submits an application on a form prepared by the Board;
- (2) possesses a valid license or registration to practice massage therapy issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia or any foreign nation;
- (3) has met educational and examination requirements equal to or exceeding those established pursuant to the Massage Therapy Practice Act;
- (4) provides documentation that the applicant currently maintains liability insurance for practice as a massage therapist;
- (5) states under penalty of perjury in a manner prescribed on the application as to ~~whether the applicant has in any jurisdiction:~~

(A) whether the applicant has pleaded guilty, nolo contendere or been convicted of a felony crime other than a minor traffic violation in any jurisdiction; and

~~(B) pleaded guilty, nolo contendere or been convicted of a misdemeanor involving moral turpitude;~~
~~(C) pleaded guilty, nolo contendere or been convicted of a violation of federal or state controlled dangerous substance laws whether the applicant has had a massage therapy license revoked in another jurisdiction or been the subject of disciplinary action in another jurisdiction.~~

(6) submits a current criminal history information report obtained from the state or territory of the United States, the District of Columbia or foreign nation where the applicant is licensed. If no such report is available from the state, territory or foreign nation, the applicant shall submit a criminal history background information report from the Oklahoma State Bureau of Investigation.

(b) The applicant from another state or territory of the United States, the District of Columbia or a foreign nation may be required to provide evidence that documents have been certified as valid by a creditable agency as recognized by the Board. Any cost incurred for validation of documents shall be paid by the applicant.

(c) A criminal history background information report required by this section shall be current if dated no more than thirty (30) days prior to the date on which the applicant submits a completed application to the Board and shall include a search of sex offender and violent offender databases. All fees required for the criminal history background report shall be paid by the applicant.

(d) The Board may deny a license or impose probationary conditions if the applicant has

- (1) ~~pleaded guilty, nolo contendere or been convicted of a felony that substantially relates to the practice of massage therapy or poses as reasonable threat to public safety;~~
- (2) ~~pleaded guilty, nolo contendere or being been convicted of a misdemeanor involving moral turpitude or a misdemeanor involving an act of violence;~~
- (3) ~~pleaded guilty, nolo contendere or being been convicted of a violation of federal or state controlled dangerous substance laws;~~
- (4) engaged in unprofessional conduct as described in this chapter that has endangered or is likely to endanger the health, welfare or safety of the public;
- (5) violated any provision of the Massage Therapy Practice Act or any rule of the Board; or
- (6) had a license revoked in another jurisdiction or been the subject of disciplinary action in another jurisdiction.

(e) As used in this section:

- (1) "Substantially relates" means the nature of criminal conduct for which the person was convicted, or to which the person pleaded, has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to massage therapy; and
- (2) "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted, or to which the person pleaded, involved an act or threat of harm against another and has a bearing on the fitness or

ability to serve the public or work with others in massage therapy.

175:20-5-3. License renewal

(a) Massage therapy licenses shall be renewed biennially on the last day of the birth month of the licensee.

(b) In order to renew a license, a licensee shall:

- (1) submit a renewal application on a form prepared by the Board;
- (2) demonstrate completion of all continuing education requirements in a manner prescribed by the Board;
- (3) provide documentation that the applicant currently maintains liability insurance for practice as a massage therapist;
- (4) remit all required fees for renewal; and
- (5) states under penalty of perjury in a manner prescribed on the application as to ~~whether the applicant has in any jurisdiction:~~

- (A) whether the applicant has pleaded guilty, nolo contendere or been convicted of a felony crime other than a minor traffic violation in any jurisdiction; and
- (B) ~~pleaded guilty, nolo contendere or been convicted of a misdemeanor involving moral turpitude;~~
- (C) ~~pleaded guilty, nolo contendere or been convicted of a violation of federal or state controlled dangerous substance laws whether the applicant has had a massage therapy license revoked in another jurisdiction or been the subject of disciplinary action in another jurisdiction.~~

(d) A thirty-day grace period shall be allowed after the end of the renewal period. During the grace period, a license may be renewed upon payment of the renewal fee and a late fee as prescribed by the Board.

(e) If a massage therapist license is not renewed by the end of the thirty-day grace period, the license shall be placed on inactive status for a period not to exceed one (1) year. No person shall practice massage therapy while the license is in inactive status.

(f) If within a period of one (1) year from the date the license was placed on inactive status the massage therapist wishes to resume practice, the massage therapist shall notify the Board in writing and, upon receipt of proof of completion of all continuing education requirements and payment of a reactivation fee, the license shall be restored in full.

(g) If a license is not reactivated within one (1) year from the date that it was placed in inactive status, the license shall automatically expire. If the person who held the expired license wishes to practice as a massage therapist, the person shall apply for an original license and shall meet all requirements for original licensure as prescribed in this chapter.

175:20-5-7. Disqualifying criminal history and opportunity for initial determination

(a) Pursuant to 59 O.S. § 4000.1, the Board of Cosmetology and Barbering shall adopt a list of crimes that could disqualify a person from being licensed as a massage therapist. The Board

