

MAINE STATE LEGISLATURE

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CHAPTER 7
BARBERS AND BARBERSHOPS

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SUBCHAPTER I

GENERAL PROVISIONS

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301. Definitions.
302. Persons exempted; interstate commerce.
303. Schools of barbering; fees.
304. Penalties.

§ 301. Definitions

The following words and phrases, when used in this chapter shall be construed as follows:

1. The practice of barbering. "The practice of barbering" shall mean any one or any combination of the following practices, when done upon the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

- A.** Shaving or trimming the beard or cutting the hair;
- B.** Giving facial and scalp massage or treatments with cosmetic preparations, either by hand or mechanical or electrical appliances;
- C.** Singeing, dyeing, tinting, bleaching or shampooing the hair or applying cosmetic preparations to the hair, scalp, face, neck or upper part of the body; such dyeing, tinting or bleaching shall not be practiced unless the barber or apprentice barber has taken a course with a minimum of 75 hours in such practices, approved by the board;
- D.** Removing superfluous hair from the face, neck or upper part of body.

1963, c. 129, § 1.

2. Apprentice barber. "Apprentice barber" shall mean any person who is engaged in learning and acquiring a knowledge of the practice of barbering under the direction and supervision of a person duly authorized under this chapter to practice barbering.

3. Exceptions. Cutting of hair, barbering and the practice of barbering shall be done only in a licensed barber shop by persons duly registered to practice barbering in this State, except in the following situations:

- A. When done upon patients in hospitals or nursing homes;
- B. When done upon residents of summer camps;
- C. When done upon inmates of institutions;
- D. When done by a member of a household cutting the hair of immediate members of their family;
- E. When done upon invalids in their place of residence;
- F. When done upon the occupant in his hotel or motel room.

1961, c. 359, § 4; 1963, c. 129, §§ 1, 2.

§ 302. Persons exempted; interstate commerce

The prohibitions and penalties of this chapter shall not apply to the following persons when acting within the scope of their profession or occupation:

1. Practice medicine and surgery. Persons authorized by law of this State to practice medicine and surgery;

2. United States medical officers. Commissioned medical officers of the United States army, navy or marine hospital service;

3. Registered nurses. Registered nurses.

This chapter applies only to those cosmetic preparations and apparatus sold or offered for sale in intrastate commerce.

1961, c. 359, § 4.

§ 303. Schools of barbering; fees

No school of barbering shall be approved by the board until it shall attach to its staff a physician duly licensed to practice medicine in the state where the school is located, who shall instruct the students by lectures or demonstrations at least twice but not more than 4 times during the course on subjects of sani-

tation, sterilization, general anatomy and diseases, nor unless it has a minimum requirement of a continuous course of study of 1,000 hours distributed over a term of not less than 6 months, including practical demonstrations, written or oral tests and theoretical and practical instruction in sanitation, fundamentals for barbering, hygiene, histology of the hair, skin, face and neck, diseases of the skin, hair, glands and nails, massaging and manipulating the muscles of the upper body, hair cutting, shaving and arranging, dressing, coloring, bleaching, tinting the hair, sterilization and the use of antiseptics, cosmetics and electrical appliances customarily used in the practice of barbering, which course of study and instruction shall be subject to the approval of said board. No school of barbering shall be an approved school until approval shall be recorded in the records of said board and until it shall receive a certificate of approval issued by said board. The fee for such certificate shall be \$50 and it shall be good for one year from date when issued, unless sooner suspended. Said certificate may, so long as such school continues to meet the approval of said board, be renewed from year to year upon payment of a fee of \$50 for each renewal. When the board believes a license should be suspended or revoked it shall file a statement or complaint with the Administrative Hearing Commissioner designated in Title 5, chapters 301 to 307.

No person shall be engaged to instruct in any practice of barbering as defined in section 301 unless said instructor has a certificate to practice barbering under this chapter, excepting physicians as specified.

1961, c. 359, § 4; c. 417, § 64; 1963, c. 139, § 3; c. 412, § 23.

§ 304. Penalties

Any person engaged in the practice of barbering in this State without having obtained a certificate of registration as provided by this chapter or employing a person to practice barbering who has not such a certificate of registration or who has not a certificate of registration as an apprentice barber, or falsely pretending to be qualified to practice barbering under this chapter or violating any of the provisions of this chapter, wherein a specific penalty is not provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$20 nor more than \$100, or by imprisonment for not more than 3 months. Every such person shall be deemed guilty of a separate and distinct offense for each month or part thereof during which such practice or employment shall be repeated or con-

tinued after prosecution has been begun against any such person for the violation of any of the provisions of this chapter.

1961, c. 359, § 4.

SUBCHAPTER II

STATE BOARD OF BARBERS

Sec.

- 351. Membership; executive secretary; compensation.
- 352. Rules and regulations; insanitary conditions; contagious diseases.
- 353. Register.
- 354. Disposition of fees.

§ 351. Membership; executive secretary; compensation

The State Board of Barbers, as heretofore established and in this chapter designated as the "board," shall consist of 4 members who shall be citizens of this State, 3 of whom shall have been engaged in the practice of barbering for at least 5 years immediately prior to their appointment. The 4th member of the board shall be the Director of Health who shall have no board vote. The tenure of each barber member of the board shall be for 3 years, initially appointed as follows: The present senior barber board member, as appointed under section 1601 prior to September 16, 1961, shall serve for a term of 3 years, the junior barber board member, similarly elected, shall serve for a term of 2 years and its 3rd barber member, created by this section, shall serve for a term of one year, and shall be appointed by the Governor with the advice and consent of the Council. Thereafter, each of the barber members of the board shall be appointed by the Governor, with the advice and consent of the Council, for a term of 3 years and until his successor is appointed and qualified. Barber members of the board shall be actively engaged in the practice of barbering during membership on said board. The senior barber member of the board shall serve as chairman.

The board shall employ, subject to the terms of the Personnel Law, a full-time executive secretary, who may act as executive secretary for the barbers and hairdressers. The salary of said executive secretary shall be determined by the Board of Barbers if such executive secretary acts solely for the barbers, and by the Board of Barbers and Board of Hairdressers if the executive secretary acts for both boards, and to be paid from funds received under this chapter and chapter 23. The executive secre-

tary of said board shall keep a record of all proceedings, issue all notices except those required to be issued by the Administrative Hearing Commissioner under Title 5, chapters 301 to 307, certificates of registration and licenses, attest all such papers and orders as said board shall direct, make sanitary inspections at least twice a year of shops and other establishments subject to license under this chapter as directed by said board, and shall report annually to the Governor and Council giving a full statement of all receipts and expenditures and a statement of the work performed by the board during the year, together with such recommendations as deemed necessary. The board shall employ, subject to the terms of the Personnel Law, inspectors who shall make inspections of shops and other establishments subject to license under this chapter under the direction of the executive secretary, the salary of such inspectors to be determined by the board, and to be paid from funds received under this chapter and chapter 23. The board shall have the right to dismiss, with cause, the executive secretary or the inspectors provided for in this section.

No person operating or employed by a school of barbering shall be appointed as a member of the board, and if any member of the board, after appointment, shall affiliate himself in any way with any such school of barbering, his membership on the board shall immediately terminate and the unexpired term of such member shall be filled by the Governor and Council.

Members shall be appointed in the same manner to fill vacancies caused by death, resignation or removal, who shall serve during the unexpired term of their predecessors.

Each member of the board shall be allowed the sum of \$20 per day and their necessary expenses for actual attendance upon any examination of candidates for registration, and for any necessary hearings and board meetings.

1961, c. 359, § 4; c. 417, § 62; 1963, c. 412, § 23.

§ 352. Rules and regulations; insanitary conditions; contagious diseases

The board shall make rules and regulations not contrary to law, subject to Title 5, chapters 301 to 307 and the approval of the Department of Health and Welfare, concerning the proper use of appliances, apparatus and electrical machines used in any establishment for or in connection with any of the practices defined in section 301, and prescribing the sanitary requirements to be observed by proprietors of shops and other establishments

where barbering is practiced and by persons engaged in such practice and shall make rules and regulations not contrary to law relative to the applications for licenses and certificates of registration. The board shall cause such rules and regulations to be printed in suitable form and a copy thereof to be sent to the proprietors of such shops and establishments, which will be kept posted in a conspicuous place in such shops so as to be easily read by customers.

The board shall make rules and regulations not contrary to law, subject to Title 5, chapters 301 to 307 and the approval of the Department of Health and Welfare, prescribing the requirements for the construction, operation, maintenance and sanitary requirements of any school of barbering subject to a license under this chapter.

Any member of the board shall have power to enter and make reasonable examination of any such shop or establishment during business hours for the purpose of ascertaining whether or not the rules and regulations are being observed.

No person shall give service in any establishment licensed under this chapter who has a disease in a communicable stage.

The failure of any person to observe the requirements of any rule or regulation made by said board shall be cause for the suspension or revocation of such license by the Administrative Hearing Commissioner under Title 5, chapters 301 to 307. Any such license suspended or revoked shall be delivered to any agent of the board upon demand.

Any such shop or establishment in which tools, appliances and furnishings in use therein are kept in an unclean and insanitary condition so as to endanger health is declared to be a common nuisance, and the proprietor thereof shall be subject to prosecution and punishment by a fine of not less than \$200 nor more than \$1,000, and in addition thereto by imprisonment for not less than 60 days nor more than 11 months, and in default of payment of said fine shall be imprisoned for an additional term of not less than 60 days nor more than 11 months.

The board shall have the right to require the physical examination of any person employed in any barber shop suspected of having any contagious or infectious disease. Failure to take a physical examination, as herein required, will subject such person to a suspension of his or her license at the pleasure of the board.

1961, c. 359, § 4; c. 417, § 63; 1963, c. 412, § 23.

§ 353. Register

The board shall keep a register in which shall be entered the names of all persons to whom certificates and licenses are issued under this chapter and said register shall be at all times open to public inspection.

1961, c. 359, § 4.

§ 354. Disposition of fees

The fees received by the Board of Barbers and Board of Hairdressers under this chapter and chapter 23 shall be paid to the Treasurer of State. Fees received under said chapters shall be used for carrying out the purposes of this chapter and chapter 23.

1961, c. 359, § 4.

SUBCHAPTER III

REGISTRATION

Sec.

- 401. Registration and licenses.
- 402. Qualifications; examination.
- 403. Registration without examination.
- 404. Apprentices.
- 405. Examinations; temporary permit.
- 406. Certificates; renewals; fees.
- 407. —Revocation or suspension.

§ 401. Registration and licenses

No person shall practice barbering in this State unless he shall first have obtained a certificate of registration as provided in this chapter or unless he shall be acting within the scope of his employment as an apprentice.

No apprentice barber may independently practice barbering but he may, as an apprentice, do any or all acts constituting the practice of barbering under the immediate personal supervision of a registered barber, and only one such apprentice shall be employed in any licensed barber shop.

No person, firm or corporation shall operate or cause to be operated a shop or establishment where barbering is practiced unless such shop or establishment has been duly licensed. The fee for a license to operate a barber shop and the yearly renewal thereof shall be \$7 yearly. Shop licenses that require a special

inspection, such as new barber shops, change of barber shop location and change of barber shop ownership, shall be \$25 in the first instance including the license, and \$7 for each yearly renewal thereof. The license shall run from the first day of January in each year for one year and the fee shall be payable to the secretary of the board.

1961, c. 359, § 4; 1963, c. 139, § 1.

§ 402. Qualifications; examination

Any person shall be eligible to obtain a certificate of registration under this chapter as a barber:

1. **Age.** Who is at least 17 years of age;
2. **Character.** Who is of good respectable character and temperate habits;
3. **Training.** Who has satisfactorily completed a course of instruction of 1,000 hours in not less than 6 months in a school of barbering approved by said board and a total experience as an apprentice of a period of at least 6 months under a licensed barber; or in lieu thereof has satisfactorily completed a course of instruction of 1,500 hours in not less than 9 months in a school of barbering approved by said board; or in lieu thereof has had a total experience in the practice of barbering or as an apprentice of 2,500 hours distributed over a period of at least 18 months;
4. **Examination.** Who has satisfactorily passed an examination conducted by said board to determine his fitness to receive such certificate.

Each applicant for such examination shall make written application therefor on a form prescribed and supplied by said board, which application shall contain satisfactory evidence of the qualifications required of the applicant under this chapter and shall be sworn to by the applicant. Said applications shall be filed with the secretary of the said board and shall be accompanied by an examination fee of \$5 which shall not include registration, if examination is satisfactory. If not successful, applicant shall have the privilege of taking a 2nd examination on payment of a fee of \$5 at any subsequent examination held by said board within a period of one year.

1961, c. 359, § 4; 1963, c. 139, § 2.

§ 403. Registration without examination

Any person licensed to practice barbering in another state whose requirements are equal to those specified in this chapter

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may, upon payment of a fee of \$25, be entitled to a certificate of registration without examination, providing that each such state accepts without examination applicants registered in this State for registration or licenses, as the case may be, in a similar manner.

1961, c. 359, § 4.

§ 404. Apprentices

Every apprentice barber, in order to avail himself of this chapter shall, within 10 days after entering upon his apprenticeship, file with the secretary of the board, on blanks which shall be provided by said board, the name and place of business of his employer, the date of commencement of such apprenticeship and full name and age of said apprentice, which age shall not be less than 17 years, and said blanks shall be accompanied by a registration fee of \$5. Any such apprentice who shall change his place of employment shall promptly notify the board and furnish it with the name and place of business of his new employer and the date of such change.

Every apprentice barber, after serving an apprenticeship of 18 months, shall file application for examination at the next examination held by the board in accordance with requirements of section 402.

The board shall furnish to each registered apprentice a certificate of registration of said apprenticeship. The certificate shall expire at completion of 18 months' apprenticeship and shall not be renewable.

1961, c. 359, § 4; 1963, c. 139, § 4.

§ 405. Examinations; temporary permit

The board shall hold at least 2 public examinations each year, at such times and places as it shall designate. Additional examinations may be held at the discretion of the board. Notice of all examinations shall be given by publication at least 10 days before the holding of any such examination in at least 2 daily newspapers printed and published in the county in which such examinations shall be held.

If any applicant to practice barbering, who has been a resident of the State for a period of at least 6 months, qualifies for examination, the board may issue to such applicant, until the results of the applicant's examination have been given, a permit to practice barbering under the supervision of a person registered to

practice barbering. The permit shall terminate with the examination following applicant's qualification. If applicant fails first examination following qualification, said applicant may renew permit to practice barbering under supervision of a person registered to practice barbering, until the results of the next consecutive examination have been given, at which time said permit expires and shall not be renewable. Such applicant shall be considered an apprentice. The applicant shall pay to the board a fee of \$5.

1961, c. 359, § 4; 1963, c. 139, § 5.

§ 406. **Certificates; renewals; fees**

The board shall furnish to each registered barber a certificate of registration in form prescribed by the board, bearing the seal of the board, certifying that the holder thereof is entitled to practice barbering in this State, and it shall be the duty of the holder of such certificate of registration to post the same in a conspicuous place where it may be readily seen by all persons on or before the first day of January in each year, and the holder of said certificate of registration shall pay to the secretary of the board the sum of \$10 in the first instance and \$10 for each yearly renewal thereof.

Any registered barber who fails in any year to renew certificate to practice barbering shall successfully pass a regular examination conducted by the board before a new certificate may be issued.

Any person licensed to practice barbering in another state which has no reciprocal agreement with this State may, upon payment of a \$15 examination fee and after establishing 6 months residence in this State, be entitled to apply for examination.

1961, c. 359, § 4; 1963, c. 102; c. 139, § 6.

§ 407. **—Revocation or suspension**

The board may either refuse to issue or renew or may file a statement or complaint with the Administrative Hearing Commissioner requesting the suspension or revocation of any certificate of registration granted by it under this chapter for:

1. **Felony.** Conviction of a felony shown by a certified copy of the record of the court of conviction;

2. **Malpractice or incompetency.** Gross malpractice or gross incompetency;

3. Disease. Continued practice by a person knowingly having an infectious or contagious disease;

4. Drunkenness or drug addiction. Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit forming drugs;

5. Conduct. Immoral or unprofessional conduct;

6. Unclean shop. The keeping of a shop or other establishment, or the tools, appliances or furnishings thereof in an unclean or insanitary condition;

7. Requirements of law. Failure to comply with any of the prescribed requirements of this chapter;

8. Misrepresentation of qualifications. For misrepresentation of qualifications.

Any person whose certificate has been suspended or revoked may apply to the Administrative Hearing Commissioner to have the same reissued, and the same shall be reissued upon satisfactory evidence that the disqualifications have ceased.

Any such certificate of registration suspended or revoked shall be delivered to any agent of the board upon demand.

1961, c. 359, § 4; c. 417, § 65; 1963, c. 412, § 23.