

HEALTH AND HUMAN SERVICES COMMITTEE OF THE NEBRASKA LEGISLATURE

Report as required by Neb. Rev. Stat. 84-948

One Hundred Nineth Legislature
First Session

Committee Members

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Senator Ben Hansen, District 16

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Occupational Board Reform Act

The Legislature passed the Occupational Board Reform Act in 2018 (Neb. Rev. Stat. §§ 84-901 to 84-920) with an operative date of July 1, 2019. This Act requires that:

“Beginning in 2019, each standing committee of the Legislature shall annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report electronically to the Clerk of the Legislature by December 15 of each year as provided in this section. Each committee shall complete this process for all occupational regulations within its jurisdiction within five years and every five years thereafter. Each report shall include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified.” (Neb. Rev. Stat. § 84-948)

Committee Findings

Neb. Rev. Stat. 84-948 requires the report to include the following with answers in bold:

(3) A committee's report shall include, but not be limited to, the following:

(a) The title of the regulated occupation and the name of the occupational board responsible for enforcement of the occupational regulations.

Board of Barber Examiners; barbers, barber instructors and barber schools

(b) The statutory citation or other authorization for the creation of the occupational regulations and occupational board;

Neb. Rev. Stat. 71-225, 71-228

(c) The number of members of the occupational board and how the members are appointed;

Three members; appointed by Governor

(d) The qualifications for membership on the occupational board;

Each member shall be a practicing barber who has followed the occupation of barbering in this state for at least 5 years prior to his appointment, and who is actually engaged in the practice of barbering during the term of the appointment

(e) The number of times the occupational board is required to meet during the year and the number of times it actually met;

Board is required to meet 4 times a year: 2020/21, 4 meetings held; 2021/22, 4 meetings held; 2022/23, 4 meetings held; 2023/24, 4 meetings held; 2024/25, 4 meetings held

(f) Annual budget information for the occupational board for the five most recently completed fiscal years;

FY 20/21: \$174,124

FY 21/22: \$181,823

FY22/23: \$184,732

FY23/24: \$192,008

FY24/25: \$199,101

(g) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, occupational licenses, and registrations the occupational board has issued, revoke, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, other penalties.

The Board of Barber Examiners issues a 2 year renewable license for barbers, barber instructors, long with barber shops and barber schools.

The total number of new barber licenses issued from July 1, 2020 through June 30, 2025 is 295. The total number of new barber instructor licenses issued for the same time period is 7. The total number of licenses for barbers, due to renewals of previous licenses, 1302. The total number of licenses for barber instructors, due to renewal of previous licenses, is 23.

There have been 26 applications for barber licensure denied in the past 5 years. Reasons being lack of proper documents supporting licensure, or lack of proper training.

There were no licenses revoked or penalized in the past 5 years.

(h) A review of the basic assumptions underlying the creation of the occupational regulations;

Neb. Rev. Stat. 71-201 provides that no person shall practice or attempt to practice barbering without a license issued pursuant to the Barber Act by the board. It shall be unlawful to operate a barber shop unless it is at all times under the direct supervision and management of a licensed barber;

(i) A statement from the occupational board on the effectiveness of the occupational regulations

“The Board of Barber Examiners believes the occupational regulations governing the barber industry is vitally important due to the strict sanitation regulations within them. The primary function of the Board is to oversee the health and safety of the public with focus on sanitation practices in the barber shop. Sanitation is a major part of the curriculum taught in licensed barber schools, instilling the practice of proper sanitation throughout the educational experience. “Our agency is required by statute to inspect each licensed barber shop at least once every license period and barber schools are inspected at least four times per fiscal year. These inspections focus on all areas of 2 sanitation practices. Disinfecting tools and equipment used by the barber as well as cleaning all aspects of the shop or school. A failing score issued by our agency during an inspection will result in action must be taken by the offender to correct any deficiencies found during the inspection. Barber shops and school must follow the safe and sanitary practices defined in the Rules and Regulations created by the Barber Board. Improper sanitation by a barber shop or school can lead to the spread of disease or harmful virus’s from client to client or staff to client. Our office handles all complaints filed by the public, as risks to others and the complaints are dealt with in an investigational matter.

“Regulations concerning minimum requirements for curriculum offered by barber schools are to give the barber student the proper skills when preforming acts of barbering on clients. Many of the tools used for barber services can cause harm to a client if they are not properly used. The same is true when educating a barber student on the uses of chemicals on a client. In summary, the Board feels that the current regulations created by the Barber Board are enacted to protect the public and the barber. In 2018, The Nebraska Board of Barber Examiners did a major revision of the rules and regulations relating to barbering, to reduce any duplication of regulation or statute and to lessen the burden placed on licensees or potential licensees.”

(j) A comparison of whether and how other states regulate the occupation;

All of the states in the United States have regulations regarding barbers and barber shops. Many of the standards set by the Nebraska Board of Barber Examiners are similar to other state barber boards, especially concerning sanitation practices. Regulations set by states concerning licensure may differ from state to state, as a Nebraska Barber License will allow the license holder to perform chemical services, while some of the other states do not. The states that offer a license to barbers to only cut hair and shave, will often require fewer hours of school training, versus a state that allows barbers to perform chemical services. While Nebraska does not enforce a fine to licensees for not following regulations, other states do enforce a fine. In summary, all states do have regulations or statutes on sanitation for barbers, which may vary from state to state, depending on the type of licenses offered and how violations are handled.

(4) Subject to subsection)5) of this section, each committee shall also analyze, and include in its report, whether the occupational regulations meet the policies stated in section 84-946 considering the following recommended courses of action for meeting such policies:

The regulations appear to be consistent with Neb. Rev. Stat. 71-201 through 71-255.

<https://rules.nebraska.gov/rules?agencyId=10&titleId=31>

- (a) If the need is to protect consumers against fraud, the likely recommendation will be to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific goods or services:

N/A

- (b) If the need is to protect consumers unclean facilities or to promote general health and safety, the likely recommendation will be to require periodic inspections of such facilities;

Recommendation is that this is already provided in Neb. Rev. Stat. 71-223.01.

- (c) If the need is protect consumers against potential damages from failure by providers to complete a contract fully or up to standards, the likely recommendation will be to require that providers be bonded:

N/A

- (d) If the need is to protect a person who is not party to a contract between the provider and consumer, the likely recommendation will be to require that the provider have insurance;

N/A

- (e) If the need is to protect consumers against potential damages by transient providers, the likely recommendation will be to require that providers register their businesses with the Secretary of State;

N/A

- (f) If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the providers' knowledge, the likely recommendation will be to enact government certification; and

N/A

- (g) If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's inability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the likely recommendation will be to enact an occupational license.

N/A

(5) If a lawful occupation is subject to the Nebraska Regulation of Health Professions Act, the analysis under subsection (4) of this section shall be made using the least restrictive method of regulation as set out in section 71-6222.

N/A

(6) In developing recommendations under this section, the committee shall review any report issued to the Legislature pursuant to the Nebraska Regulation of Health Professions Act, if applicable, and consider any findings or recommendations of such report related to the occupational regulations under review.

N/A

(7) If the committee finds that it is necessary to change occupational regulations, the committee shall recommend the least restrictive regulation consistent with the public interest and the policies in this section and section 84-946.

NA

Conclusion

The licenses, certifications, and registrations overseen by the Board of Barbers Examiners are intended to protect the health, safety, and welfare of Nebraskans. As a whole, regulation of the barbering industry is appropriate and balanced and does not need modification at this time.