

By: Hamric

H.B. No. 1436

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbers and cosmetologists by the Texas Board of Barbering and Cosmetology and the abolition of the State Board of Barber Examiners and the Texas Cosmetology Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. TEXAS BOARD OF BARBERING AND COSMETOLOGY

SECTION 1.01. Title 9, Occupations Code, is amended by adding Chapter 1603 to read as follows:

CHAPTER 1603. TEXAS BOARD OF BARBERING AND COSMETOLOGY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1603.001. GENERAL DEFINITIONS. (a) In this chapter:

(1) "Board" means the Texas Board of Barbering and Cosmetology.

(2) "Executive director" means the executive director of the board.

(b) Unless the context clearly indicates otherwise, the definitions in Chapters 1601 and 1602 apply to this chapter.

Sec. 1603.002. APPLICATION OF SUNSET ACT. (a) The Texas Board of Barbering and Cosmetology is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter, Chapter 1601, and Chapter 1602 expire September 1, 2009.

(b) In the review of the board by the Sunset Advisory

1 Commission, as required by this section, the commission shall limit
2 its review to the appropriateness of recommendations made by the
3 commission to the 79th Legislature. In the Sunset Advisory
4 Commission's report to the 81st Legislature, the commission may
5 include any recommendation it considers appropriate.

6 [Sections 1603.003-1603.050 reserved for expansion]

7 SUBCHAPTER B. TEXAS BOARD OF BARBERING AND COSMETOLOGY

8 Sec. 1603.051. BOARD; MEMBERSHIP. (a) The Texas Board of
9 Barbering and Cosmetology consists of nine members appointed by the
10 governor as follows:

11 (1) three barber members, one of whom must be a Class A
12 barber certificate holder, one of whom must be a barbershop permit
13 holder, and one of whom must be a barber school permit holder;

14 (2) three cosmetologist members, one of whom must be
15 an operator license holder, one of whom must be a beauty or
16 specialty shop license holder, and one of whom must be a private
17 beauty culture school license holder; and

18 (3) three public members.

19 (b) Appointments to the board shall be made without regard
20 to the race, color, disability, sex, religion, age, or national
21 origin of the appointee.

22 Sec. 1603.052. MEMBER ELIGIBILITY. (a) To qualify as a
23 board member, a person must:

24 (1) be a United States citizen;

25 (2) be at least 25 years of age; and

26 (3) unless the person is a public member, have been
27 actively engaged in the field of barbering or cosmetology that is

1 the basis of the person's qualification for office under Section
2 1603.051 for not less than the five years preceding appointment.

3 (b) A person may not be a public member of the board if the
4 person or the person's spouse:

5 (1) is registered, certified, or licensed by a
6 regulatory agency in the field of barbering or cosmetology;

7 (2) is employed by or participates in the management
8 of a business entity or other organization regulated by or
9 receiving money from the board;

10 (3) owns or controls, directly or indirectly, more
11 than a 10 percent interest in a business entity or other
12 organization regulated by or receiving money from the board; or

13 (4) uses or receives a substantial amount of tangible
14 goods, services, or money from the board, other than compensation
15 or reimbursement authorized by law for board membership,
16 attendance, or expenses.

17 (c) An operator license holder is not eligible for
18 appointment as a board member if the license holder has a direct or
19 indirect affiliation with or a financial or other interest in a
20 private beauty culture school or beauty shop.

21 (d) A beauty shop license holder is not eligible for
22 appointment as a board member if the license holder has a direct or
23 indirect affiliation with or a financial or other interest in a
24 private beauty culture school.

25 (e) A private beauty culture school license holder is not
26 eligible for appointment as a board member if the license holder has
27 a direct or indirect affiliation with or a financial or other

1 interest in a beauty shop.

2 Sec. 1603.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
3 In this section, "Texas trade association" means a cooperative and
4 voluntarily joined statewide association of business or
5 professional competitors in this state designed to assist its
6 members and its industry or profession in dealing with mutual
7 business or professional problems and in promoting their common
8 interest.

9 (b) A person may not be a member of the board and may not be a
10 board employee employed in a "bona fide executive, administrative,
11 or professional capacity," as that phrase is used for purposes of
12 establishing an exemption to the overtime provisions of the federal
13 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
14 if:

15 (1) the person is an officer, employee, or paid
16 consultant of a Texas trade association in the field of barbering or
17 cosmetology; or

18 (2) the person's spouse is an officer, manager, or paid
19 consultant of a Texas trade association in the field of barbering or
20 cosmetology.

21 (c) A person may not be a member of the board or act as the
22 general counsel to the board if the person is required to register
23 as a lobbyist under Chapter 305, Government Code, because of the
24 person's activities for compensation on behalf of a profession
25 related to the operation of the board.

26 Sec. 1603.054. TERMS; VACANCY. (a) Board members serve
27 staggered six-year terms, with three members' terms expiring on

1 February 1 of each odd-numbered year.

2 (b) If a vacancy occurs during a member's term, the governor
3 shall appoint a replacement to fill the unexpired term.

4 Sec. 1603.055. GROUNDS FOR REMOVAL. (a) It is a ground for
5 removal from the board that a member:

6 (1) does not have at the time of taking office the
7 qualifications required by Section 1603.051;

8 (2) does not maintain during service on the board the
9 qualifications required by Section 1603.051;

10 (3) is ineligible for membership under Section
11 1603.052 or 1603.053;

12 (4) cannot, because of illness or disability,
13 discharge the member's duties for a substantial part of the member's
14 term; or

15 (5) is absent from more than half of the regularly
16 scheduled board meetings that the member is eligible to attend
17 during a calendar year without an excuse approved by a majority
18 vote of the board.

19 (b) The validity of an action of the board is not affected by
20 the fact that it is taken when a ground for removal of a board member
21 exists.

22 (c) If the executive director has knowledge that a potential
23 ground for removal exists, the executive director shall notify the
24 presiding officer of the board of the potential ground. The
25 presiding officer shall then notify the governor and the attorney
26 general that a potential ground for removal exists. If the
27 potential ground for removal involves the presiding officer, the

1 executive director shall notify the next highest ranking officer of
2 the board, who shall then notify the governor and the attorney
3 general that a potential ground for removal exists.

4 Sec. 1603.056. PER DIEM; REIMBURSEMENT. (a) A board member
5 is entitled to the per diem set by the General Appropriations Act.

6 (b) A board member is entitled to reimbursement for travel
7 expenses in accordance with the General Appropriations Act.

8 (c) A board member who seeks reimbursement for expenses
9 shall present a sworn, complete itemized statement of the number of
10 days engaged in the board's business and the amount of expenses
11 incurred by the member.

12 Sec. 1603.057. PRESIDING OFFICER. The governor shall
13 designate a public member of the board as the presiding officer of
14 the board to serve in that capacity at the will of the governor.

15 Sec. 1603.058. MEETINGS. (a) The board shall meet at least
16 once each year.

17 (b) The board may meet at other times at the call of the
18 presiding officer or as provided by board rule.

19 Sec. 1603.059. BOARD MEMBER TRAINING. (a) A person who is
20 appointed to and qualifies for office as a member of the board may
21 not vote, deliberate, or be counted as a member in attendance at a
22 meeting of the board until the person completes a training program
23 that complies with this section.

24 (b) The training program must provide the person with
25 information regarding:

26 (1) this chapter, Chapters 1601 and 1602, and the
27 programs, functions, rules, and budget of the board;

1 (2) the results of the most recent formal audit of the
2 board;

3 (3) the requirements of laws relating to open
4 meetings, public information, administrative procedure, and
5 conflicts of interest; and

6 (4) any applicable ethics policies adopted by the
7 board or the Texas Ethics Commission.

8 (c) A person appointed to the board is entitled to
9 reimbursement, as provided by the General Appropriations Act, for
10 the travel expenses incurred in attending the training program
11 regardless of whether the attendance at the program occurs before
12 or after the person qualifies for office.

13 [Sections 1603.060-1603.100 reserved for expansion]

14 SUBCHAPTER C. EXECUTIVE DIRECTOR AND PERSONNEL

15 Sec. 1603.101. EXECUTIVE DIRECTOR. (a) The board shall
16 employ an executive director. The executive director is the
17 executive head of the board and performs its administrative duties.

18 (b) The board shall set the compensation of the executive
19 director.

20 Sec. 1603.102. PERSONNEL. The executive director may
21 employ personnel as necessary to implement this chapter.

22 Sec. 1603.103. DIVISION OF RESPONSIBILITIES. The board
23 shall develop and implement policies that clearly separate the
24 policy-making responsibilities of the board and the management
25 responsibilities of the executive director and the staff of the
26 board.

27 [Sections 1603.104-1603.150 reserved for expansion]

SUBCHAPTER D. BOARD POWERS AND DUTIES

Sec. 1603.151. RULES. The board shall adopt rules consistent with this chapter for:

(1) the administration of this chapter and the operation of the board; and

(2) the administration of Chapters 1601 and 1602.

Sec. 1603.152. FEES. The board shall adopt fees in amounts that are reasonable and necessary to provide sufficient revenue to administer the programs under the board's authority, including application, examination, inspection, certificate, license, permit, and renewal fees.

Sec. 1603.153. SANITATION RULES. The board shall establish sanitation rules to prevent the spread of an infectious or contagious disease.

Sec. 1603.154. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by that person.

(b) The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or the use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

1 (4) restricts the use of a trade name in advertising by
2 the person.

3 Sec. 1603.155. INSPECTION OF SCHOOLS, SHOPS, AND FACILITIES
4 BEFORE OPERATION. (a) Until the board determines, by inspection,
5 that the person has established the school, shop, or facility in
6 compliance with this chapter, Chapter 1601, or Chapter 1602, a
7 person may not operate a school, shop, or other facility licensed or
8 permitted under this chapter, Chapter 1601, or Chapter 1602.

9 (b) A school, shop, or other facility that is not approved
10 by the board on initial inspection may be reinspected.

11 (c) The school, shop, or other facility shall pay for each
12 inspection.

13 Sec. 1603.156. PERIODIC AND RISK-BASED INSPECTIONS. (a)
14 The board may enter and inspect at any time during business hours:

15 (1) the place of business of any person regulated
16 under this chapter, Chapter 1601, or Chapter 1602; or

17 (2) any place in which the board has probable cause to
18 believe that a certificate, license, or permit holder is practicing
19 illegally.

20 (b) At least once every two years, the board shall inspect:

21 (1) the place of business of each permit holder under
22 Chapter 1601; and

23 (2) each facility licensed under Subchapter G, Chapter
24 1602.

25 (c) The board may inspect the premises of any person
26 regulated under this chapter, Chapter 1601, or Chapter 1602 to
27 investigate a complaint at any time during business hours on

1 receipt of a formal written complaint that the person has violated
2 this chapter, Chapter 1601, or Chapter 1602.

3 (d) The board shall set priorities for inspections based on
4 the risk of:

5 (1) a sanitation violation; and

6 (2) a new violation due to the person's inspection and
7 complaint history.

8 (e) If an inspector discovers a violation of this chapter,
9 Chapter 1601, Chapter 1602, or a board rule, the inspector shall:

10 (1) provide written notice of the violation to the
11 violation on a form prescribed by the board; and

12 (2) file a complaint with the executive director.

13 Sec. 1603.157. USE OF TECHNOLOGY. The board shall
14 implement a policy requiring the board to use appropriate
15 technological solutions to improve the board's ability to perform
16 its functions. The policy must ensure that the public is able to
17 interact with the board on the Internet.

18 Sec. 1603.158. NEGOTIATED RULEMAKING AND ALTERNATIVE
19 DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and
20 implement a policy to encourage the use of:

21 (1) negotiated rulemaking procedures under Chapter
22 2008, Government Code, for the adoption of board rules; and

23 (2) appropriate alternative dispute resolution
24 procedures under Chapter 2009, Government Code, to assist in the
25 resolution of internal and external disputes under the board's
26 jurisdiction.

27 (b) The board's procedures relating to alternative dispute

1 resolution must conform, to the extent possible, to any model
2 guidelines issued by the State Office of Administrative Hearings
3 for the use of alternative dispute resolution by state agencies.

4 (c) The board shall designate a trained person to:

5 (1) coordinate the implementation of the policy
6 adopted under Subsection (a);

7 (2) serve as a resource for any training needed to
8 implement the procedures for negotiated rulemaking or alternative
9 dispute resolution; and

10 (3) collect data concerning the effectiveness of
11 those procedures, as implemented by the board.

12 Sec. 1603.159. RETENTION OF STUDENT RECORDS. The board may
13 not retain student records, including student transcripts, beyond
14 the time required by state law.

15 Sec. 1603.160. COMMITTEES. The board may appoint
16 committees that it considers necessary to carry out its duties.

17 [Sections 1603.161-1603.200 reserved for expansion]

18 SUBCHAPTER E. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

19 Sec. 1603.201. PUBLIC INTEREST INFORMATION AND
20 PARTICIPATION. (a) The board shall develop and implement policies
21 that provide the public with a reasonable opportunity to appear
22 before the board and to speak on any issue under the jurisdiction of
23 the board.

24 (b) The board shall prepare information of public interest
25 describing the functions of the board. The board shall make the
26 information available to the public and appropriate state agencies.

27 (c) The board by rule shall establish methods by which

1 consumers and service recipients are notified of the name, mailing
2 address, and telephone number of the board for the purpose of
3 directing complaints to the board. The board may provide for that
4 notice:

5 (1) on each registration form, application, or written
6 contract for services of a person regulated under this chapter,
7 Chapter 1601, or Chapter 1602;

8 (2) on a sign prominently displayed in the place of
9 business of each person regulated under this chapter, Chapter 1601,
10 or Chapter 1602; or

11 (3) in a bill for service provided by a person
12 regulated under this chapter, Chapter 1601, or Chapter 1602.

13 Sec. 1603.202. COMPLAINT PROCEDURES. (a) The board shall
14 adopt a comprehensive procedure for receiving and adjudicating
15 complaints from consumers and service recipients. The procedures
16 must address each phase of the complaint process, including
17 complaint intake, preliminary evaluation, investigation,
18 adjudication, penalties, and public disclosure.

19 (b) The board shall maintain a system to promptly and
20 efficiently act on complaints filed with the board. The board shall
21 maintain:

22 (1) information about the parties to the complaint and
23 the subject matter of the complaint;

24 (2) a summary of the results of the review or
25 investigation of the complaint; and

26 (3) information about the disposition of the
27 complaint.

1 (c) The board shall make information available describing
2 its procedures for complaint investigation and resolution.

3 (d) The board shall periodically notify the parties of the
4 status of the complaint until final disposition of the complaint.

5 (e) If the board determines that it lacks jurisdiction to
6 resolve the complaint, the board shall notify the complainant in
7 writing that the board is closing the complaint because it lacks
8 jurisdiction.

9 Sec. 1603.203. ANALYSIS OF COMPLAINTS AND VIOLATIONS. (a)
10 The board shall develop and maintain a system to analyze the
11 processing, sources, and types of complaints filed with the board
12 and the types of violations that occur under this chapter, Chapter
13 1601, and Chapter 1602.

14 (b) Based on the information under Subsection (a), the board
15 shall analyze trends in violations and complaints that may require
16 further attention or technical assistance to help reduce the
17 frequency of those complaints and violations.

18 (c) The board shall annually compile a statistical analysis
19 of the complaints filed and violations occurring during the
20 preceding year, including:

21 (1) the number of complaints filed;

22 (2) a categorization of complaints filed according to
23 the basis of the complaint and the number of complaints in each
24 category;

25 (3) the number of complaints filed by board staff;

26 (4) the number of complaints filed by persons other
27 than board staff;

1 (5) the number of complaints filed over which the
2 board lacks jurisdiction;

3 (6) the average length of time required to close a
4 complaint or violation from the time the board receives the
5 complaint or otherwise initiates an investigation of a possible
6 violation until the complaint or violation is resolved by a final
7 order or penalty;

8 (7) the number of complaints resolved and the manner
9 in which they were resolved, including:

10 (A) the number of complaints dismissed and the
11 reasons for dismissal; and

12 (B) the number of complaints resulting in
13 disciplinary action and the type of disciplinary action taken; and

14 (8) the number of complaints filed that are
15 unresolved, the number of those complaints filed by board staff,
16 the number of those complaints filed by persons other than board
17 staff, and the average length of time that the unresolved
18 complaints have been on file.

19 Sec. 1603.204. INFORMAL SETTLEMENT CONFERENCE. The board
20 shall establish guidelines for an informal settlement conference
21 related to a complaint filed with the board.

22 [Sections 1603.205-1603.250 reserved for expansion]

23 SUBCHAPTER F. CERTIFICATE, LICENSE, AND PERMIT REQUIREMENTS

24 Sec. 1603.251. APPLICATION FORM; TIMING. (a) An
25 application for a certificate, license, or permit must be made on a
26 form prescribed and provided by the board.

27 (b) An application for an operator license, instructor

1 license, manicurist license, or facialist specialty license must be
2 filed with the board not later than the 10th day before the date set
3 for the applicable examination.

4 Sec. 1603.252. DUPLICATE CERTIFICATE, LICENSE, OR PERMIT.
5 The board shall issue a duplicate certificate, license, or permit
6 to an applicant who:

7 (1) submits an application for a duplicate
8 certificate, license, or permit to the board; and

9 (2) pays the required fee.

10 Sec. 1603.253. PROVISIONAL CERTIFICATE OR LICENSE. (a)
11 The board may issue a provisional certificate or license to an
12 applicant currently licensed in another jurisdiction who seeks a
13 certificate or license in this state and who:

14 (1) has been licensed in good standing in the
15 profession for which the person seeks the certificate or license
16 for at least two years in another jurisdiction, including a foreign
17 country, that has requirements substantially equivalent to the
18 requirements of this chapter, Chapter 1601, or Chapter 1602, as
19 appropriate; and

20 (2) has passed a national or other examination
21 recognized by the board relating to the practice of that
22 profession.

23 (b) A provisional certificate or license is valid until the
24 date the board approves or denies the provisional certificate or
25 license holder's application. The board shall issue a certificate
26 or license to the provisional certificate or license holder if:

27 (1) the provisional certificate or license holder is

1 eligible to hold a certificate or license under Chapter 1601 or
2 Chapter 1602; or

3 (2) the provisional certificate or license holder
4 passes the part of the examination under Chapter 1601 or Chapter
5 1602 that relates to the applicant's knowledge and understanding of
6 the laws and rules relating to the practice of the profession in
7 this state and:

8 (A) the board verifies that the provisional
9 certificate or license holder meets the academic and experience
10 requirements for the certificate or license; and

11 (B) the provisional certificate or license
12 holder satisfies any other certificate or license requirements.

13 (c) The board must approve or deny a provisional certificate
14 or license holder's application for a certificate or license not
15 later than the 180th day after the date the provisional certificate
16 or license is issued. The board may extend the 180-day period if
17 the results of an examination have not been received by the board
18 before the end of that period.

19 Sec. 1603.254. RECIPROCAL CERTIFICATE, LICENSE, OR PERMIT.

20 (a) A person who holds a license, certificate, or permit to
21 practice barbering or cosmetology from another state or country
22 that has standards or work experience requirements that are
23 substantially equivalent to the requirements of this chapter,
24 Chapter 1601, or Chapter 1602 may apply for a license, certificate,
25 or permit to perform the same acts of barbering or cosmetology in
26 this state that the person practiced in the other state or country.

27 (b) The person must:

1 (1) submit an application for the license,
2 certificate, or permit to the board; and

3 (2) pay fees in an amount prescribed by the board,
4 including any applicable license, certificate, or permit fee.

5 (c) A person issued a license, certificate, or permit under
6 this section:

7 (1) may perform the acts of barbering or cosmetology
8 stated on the license, certificate, or permit; and

9 (2) is subject to the renewal procedures and fees
10 provided in this chapter, Chapter 1601, or Chapter 1602 for the
11 performance of those acts of barbering or cosmetology.

12 [Sections 1603.255-1603.300 reserved for expansion]

13 SUBCHAPTER G. EXAMINATION REQUIREMENTS

14 Sec. 1603.301. WRITTEN EXAMINATION. The board shall select
15 a written examination for each examination required under this
16 chapter, Chapter 1601, or Chapter 1602. The written examination
17 must be:

18 (1) validated by an independent testing professional;
19 or

20 (2) purchased from a national testing service.

21 Sec. 1603.302. EXAMINATION APPLICATION FOR BARBERS. An
22 applicant for an examination for a certificate or license issued
23 under Chapter 1601 must submit to the board a sworn application on a
24 form prescribed and provided by the board accompanied by:

25 (1) two photographs of the applicant, one of which
26 accompanies the application and one of which is to be returned to
27 the applicant to be presented at the examination; and

1 (2) the appropriate examination fee.

2 Sec. 1603.303. EXAMINATION FREQUENCY. (a) The board shall
3 examine applicants for a Class A barber certificate and a teacher's
4 certificate at least four times annually, at times and places
5 designated by the board.

6 (b) The board shall administer examinations for
7 certificates and licenses issued under Chapter 1602 beginning the
8 first day of each month. If the first day of the month is a legal
9 holiday, the examination shall begin on the following day.

10 Sec. 1603.304. LOCATION OF EXAMINATION. (a) The board
11 shall announce the site of an examination for a certificate or
12 license issued under Chapter 1602 not later than six months before
13 the scheduled examination date.

14 (b) The board may not administer an examination in a board
15 member's school.

16 (c) An examination may not be held at a barber school or
17 barbershop owned, managed, or operated by a board member.

18 Sec. 1603.305. EARLY EXAMINATION. (a) The board, on
19 written request by a student, may provide for the early written
20 examination of an applicant for a Class A barber certificate, a
21 teacher's certificate, or an operator license who has completed at
22 least 1,000 hours of instruction in a board-approved training
23 program.

24 (b) A board inspector may administer an examination under
25 this section at barber schools or beauty culture schools throughout
26 the state.

27 Sec. 1603.306. EXAMINATION RESULTS. (a) The board shall

notify each examinee of the results of the examination not later than the 30th day after the date an examination is administered. If an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination not later than the 14th day after the date the board receives the results from the testing service.

(b) If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the board shall notify each examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the examination, the board shall provide to the person an analysis of the person's performance on the examination.

[Sections 1603.307-1603.350 reserved for expansion]

SUBCHAPTER H. CERTIFICATE, LICENSE, AND PERMIT RENEWAL

Sec. 1603.351. CERTIFICATE, LICENSE, AND PERMIT EXPIRATION AND RENEWAL. (a) A person who is otherwise eligible to renew a certificate, license, or permit may renew the unexpired certificate, license, or permit by paying the required renewal fee to the board before the expiration date of the certificate, license, or permit. A person whose certificate, license, or permit has expired may not engage in activities that require a certificate, license, or permit until the certificate, license, or permit has been renewed.

(b) A person whose certificate, license, or permit has been expired for 90 days or less may renew the certificate, license, or permit by paying to the board a renewal fee that is equal to 1-1/2

1 times the normally required renewal fee.

2 (c) A person whose certificate, license, or permit has been
3 expired for more than 90 days but less than one year may renew the
4 certificate, license, or permit by paying to the board a renewal fee
5 that is equal to two times the normally required renewal fee.

6 (d) A person whose certificate, license, or permit has been
7 expired for one year or more may not renew the certificate, license,
8 or permit. The person may obtain a new certificate, license, or
9 permit by complying with the requirements and procedures, including
10 the examination requirements, for obtaining an original
11 certificate, license, or permit.

12 Sec. 1603.352. RENEWAL OF EXPIRED CERTIFICATE, LICENSE, OR
13 PERMIT BY OUT-OF-STATE PRACTITIONER. A person who held a
14 certificate, license, or permit in this state, moved to another
15 state, and is currently licensed and has been in practice in the
16 other state for the two years preceding the date of application may
17 obtain a new certificate, license, or permit without reexamination.
18 The person must pay to the board a fee that is equal to two times the
19 normally required renewal fee for the certificate, license, or
20 permit.

21 Sec. 1603.353. NOTICE OF CERTIFICATE, LICENSE, OR PERMIT
22 EXPIRATION. Not later than the 30th day before the date a person's
23 certificate, license, or permit is scheduled to expire, the board
24 shall send written notice of the impending expiration to the person
25 at the person's last known address according to the records of the
26 board.

27 Sec. 1603.354. DENIAL OF RENEWAL DUE TO ADMINISTRATIVE

1 PENALTY. The board may deny a person's request to renew a
2 certificate, license, or permit issued under this chapter, Chapter
3 1601, or Chapter 1602 if the person has not paid an administrative
4 penalty imposed under Subchapter K. This section does not apply if:

5 (1) the person's time to pay or request a hearing has
6 not expired under Section 1603.504;

7 (2) the person has requested a hearing under Section
8 1603.504, but the person's time to pay has not expired under Section
9 1603.507; or

10 (3) the penalty is stayed.

11 [Sections 1603.355-1603.400 reserved for expansion]

12 SUBCHAPTER I. PRACTICE PROVISIONS APPLICABLE TO

13 CHAPTERS 1601 AND 1602

14 Sec. 1603.401. MINIMUM CURRICULUM FOR SCHOOLS. The board
15 shall prescribe the minimum curriculum, including the subjects and
16 the number of hours in each subject, taught by a school licensed
17 under this chapter, Chapter 1601, or Chapter 1602, including a
18 private beauty culture school or a vocational cosmetology program
19 in a public school.

20 [Sections 1603.402-1603.450 reserved for expansion]

21 SUBCHAPTER J. DENIAL AND DISCIPLINARY PROCEDURES

22 Sec. 1603.451. DENIAL, SUSPENSION, OR REVOCATION. The
23 board shall deny an application for issuance or renewal of, or shall
24 suspend or revoke, a certificate, license, or permit if the
25 applicant or person holding the certificate, license, or permit:

26 (1) engages in gross malpractice;

27 (2) knowingly continues to practice while having an

1 infectious or contagious disease;

2 (3) knowingly makes a false or deceptive statement in
3 advertising;

4 (4) advertises, practices, or attempts to practice
5 under another person's name or trade name;

6 (5) engages in fraud or deceit in obtaining a
7 certificate, license, or permit; or

8 (6) engages in an act that violates this chapter,
9 Chapter 1601, or Chapter 1602 or a board rule or order.

10 Sec. 1603.452. PROBATION. (a) The board may place on
11 probation a person whose certificate, license, or permit is
12 suspended. If a suspension is probated, the board may require the
13 person to:

14 (1) report regularly to the board on matters that are
15 the basis of the probation;

16 (2) limit practice to the areas prescribed by the
17 board; or

18 (3) continue or review professional education until
19 the person attains a degree of skill satisfactory to the board in
20 those areas that are the basis of the probation.

21 (b) The board by rule shall adopt clear probation standards
22 and procedures, including procedures for:

23 (1) imposing appropriate probation requirements;

24 (2) notifying persons on probation of probation
25 requirements and the actions necessary to meet the requirements;
26 and

27 (3) tracking the progress of persons on probation.

1 Sec. 1603.453. ADMINISTRATIVE PROCEDURE. A hearing or an
2 appeal from a hearing under this subchapter is subject to Chapter
3 2001, Government Code.

4 [Sections 1603.454-1603.500 reserved for expansion]

5 SUBCHAPTER K. ADMINISTRATIVE PENALTIES

6 Sec. 1603.501. IMPOSITION OF PENALTY. The board may impose
7 an administrative penalty on a person regulated under this chapter,
8 Chapter 1601, or Chapter 1602 who violates one of those chapters or
9 a board rule or order.

10 Sec. 1603.502. AMOUNT OF PENALTY. (a) The amount of the
11 administrative penalty may not exceed \$1,000 for each violation.
12 Each day a violation continues or occurs is a separate violation for
13 purposes of imposing a penalty.

14 (b) The amount of the penalty shall be based on:

15 (1) the seriousness of the violation, including:

16 (A) the nature, circumstance, extent, and
17 gravity of any prohibited act; and

18 (B) the hazard or potential hazard created to the
19 health, safety, or economic welfare of the public;

20 (2) the economic harm to property or the environment
21 caused by the violation;

22 (3) the history of previous violations;

23 (4) the amount necessary to deter a future violation;

24 (5) efforts made to correct the violation; and

25 (6) any other matter that justice may require.

26 Sec. 1603.503. REPORT AND NOTICE OF VIOLATION AND PENALTY.

27 (a) If the executive director determines that a violation has

1 occurred, the executive director may issue to the board a report
2 stating:

3 (1) the facts on which the determination is based; and
4 (2) the executive director's recommendation on the
5 imposition of an administrative penalty, including a
6 recommendation on the amount of the penalty.

7 (b) Not later than the 14th day after the date the report is
8 issued, the executive director shall give written notice of the
9 report to the person on whom the penalty may be imposed. The notice
10 may be given by certified mail. The notice must:

11 (1) include a brief summary of the alleged violation;
12 (2) state the amount of the recommended penalty; and
13 (3) inform the person of the person's right to a
14 hearing on the occurrence of the violation, the amount of the
15 penalty, or both.

16 Sec. 1603.504. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
17 Not later than the 20th day after the date the person receives the
18 notice, the person in writing may:

19 (1) accept the executive director's determination and
20 recommended administrative penalty; or
21 (2) make a request for a hearing on the occurrence of
22 the violation, the amount of the penalty, or both.

23 (b) If the person accepts the executive director's
24 determination and recommended penalty, the board by order shall
25 approve the determination and impose the recommended penalty.

26 Sec. 1603.505. HEARING. (a) An administrative law judge of
27 the State Office of Administrative Hearings shall hold a hearing

1 requested under Section 1603.504.

2 (b) The administrative law judge shall make findings of fact
3 and conclusions of law and promptly issue to the board a proposal
4 for decision as to the occurrence of the violation and the amount of
5 any proposed administrative penalty.

6 Sec. 1603.506. DECISION BY BOARD. (a) Based on the
7 findings of fact, conclusions of law, and proposal for a decision,
8 the board by order may determine that:

9 (1) a violation occurred and impose an administrative
10 penalty; or

11 (2) a violation did not occur.

12 (b) The notice of the board's order given to the person must
13 include a statement of the right of the person to judicial review of
14 the order.

15 Sec. 1603.507. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

16 (a) Not later than the 30th day after the date the board's order
17 becomes final, the person shall:

18 (1) pay the administrative penalty;

19 (2) pay the penalty and file a petition for judicial
20 review contesting the occurrence of the violation, the amount of
21 the penalty, or both; or

22 (3) without paying the penalty, file a petition for
23 judicial review contesting the occurrence of the violation, the
24 amount of the penalty, or both.

25 (b) Within the 30-day period, a person who acts under
26 Subsection (a)(3) may:

27 (1) stay enforcement of the penalty by:

1 (A) paying the penalty to the court for placement
2 in an escrow account; or

3 (B) giving to the court a supersedeas bond
4 approved by the court for the amount of the penalty that is
5 effective until all judicial review of the board's order is final;
6 or

7 (2) request the court to stay enforcement of the
8 penalty by:

9 (A) filing with the court a sworn affidavit of
10 the person stating that the person is financially unable to pay the
11 penalty and is financially unable to give the supersedeas bond; and

12 (B) giving a copy of the affidavit to the
13 executive director by certified mail.

14 (c) If the executive director receives a copy of an
15 affidavit under Subsection (b)(2), the executive director may file
16 with the court a contest to the affidavit not later than the fifth
17 day after the date the copy is received.

18 (d) The court shall hold a hearing on the facts alleged in
19 the affidavit as soon as practicable and shall stay the enforcement
20 of the penalty on finding that the alleged facts are true. The
21 person who files an affidavit has the burden of proving that the
22 person is financially unable to pay the penalty and to give a
23 supersedeas bond.

24 Sec. 1603.508. COLLECTION OF PENALTY. If the person on whom
25 the administrative penalty is imposed does not pay the penalty and
26 the enforcement of the penalty is not stayed, the executive
27 director may refer the matter to the attorney general for

1 collection of the penalty.

2 Sec. 1603.509. DECISION BY COURT. (a) If the court
3 sustains the finding that a violation occurred, the court may
4 uphold or reduce the amount of the administrative penalty and order
5 the person to pay the full or reduced amount of the penalty.

6 (b) If the court does not sustain the finding that a
7 violation occurred, the court shall order that a penalty is not
8 owed.

9 Sec. 1603.510. REMITTANCE OF PENALTY AND INTEREST. (a) If,
10 after judicial review, the administrative penalty is reduced or not
11 imposed by the court, the court shall, after the judgment becomes
12 final:

13 (1) order that the appropriate amount, plus accrued
14 interest, be remitted to the person if the person paid the penalty;
15 or

16 (2) order the release of the bond if the penalty is not
17 imposed or order the release of the bond after the person pays the
18 penalty if the person posted a supersedeas bond.

19 (b) The interest paid under Subsection (a)(1) is the rate
20 charged on loans to depository institutions by the New York Federal
21 Reserve Bank. The interest shall be paid for the period beginning
22 on the date the penalty is paid and ending on the date the penalty is
23 remitted.

24 Sec. 1603.511. ADMINISTRATIVE PROCEDURE. A proceeding
25 under this subchapter to impose an administrative penalty is a
26 contested case under Chapter 2001, Government Code.

27 [Sections 1603.512-1603.550 reserved for expansion]

1 SUBCHAPTER L. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

2 Sec. 1603.551. INJUNCTIVE RELIEF. (a) The board may bring
3 an action in a district court in Travis County to enjoin a person
4 from violating this chapter, Chapter 1601, Chapter 1602, or a board
5 rule.

6 (b) If a certificate, license, or permit holder commits a
7 violation of one of those chapters or a board rule and the violation
8 poses a serious threat to the public health, the board shall
9 initiate a suit for injunction and proceedings for suspension or
10 revocation of the certificate, license, or permit.

11 (c) In seeking an injunction under this section, the board
12 is not required to allege or prove:

13 (1) that an adequate remedy at law does not exist; or
14 (2) that substantial or irreparable damage would
15 result from the continued violation.

16 Sec. 1603.552. CIVIL PENALTY. (a) A barber, barber school,
17 or private beauty culture school that violates this chapter,
18 Chapter 1601, Chapter 1602, or a board rule is liable for a civil
19 penalty in addition to any injunctive relief or other remedy
20 provided by law.

21 (b) The amount of the civil penalty for a barber may not
22 exceed \$25 a day for each violation.

23 (c) The amount of the civil penalty for a barber school or
24 private beauty culture school may not exceed \$1,000 a day for each
25 violation.

26 (d) The attorney general may sue to collect the civil
27 penalty.

1 Sec. 1603.553. APPEAL BOND NOT REQUIRED. The board is not
2 required to give an appeal bond in a cause arising under this
3 chapter, Chapter 1601, or Chapter 1602.

4 Sec. 1603.554. ENFORCEMENT BY ATTORNEY GENERAL. The
5 attorney general shall represent the board in an action to enforce
6 this chapter, Chapter 1601, or Chapter 1602.

7 [Sections 1603.555-1603.600 reserved for expansion]

8 SUBCHAPTER M. BUSINESS IMPROVEMENT PLAN

9 Sec. 1603.601. BUSINESS IMPROVEMENT PLAN. (a) The board
10 shall adopt and implement a business improvement plan.

11 (b) The plan must demonstrate a commitment to and result in
12 significant improvement in:

13 (1) the elimination of any backlogs in inspection and
14 enforcement, including resolution of complaints and pending
15 enforcement cases; and

16 (2) the implementation of:

17 (A) legislation passed affecting the board;

18 (B) management recommendations by the Sunset
19 Advisory Commission; and

20 (C) recommendations of the State Auditor's
21 Office.

22 Sec. 1603.602. QUARTERLY REPORTS. (a) Not later than
23 December 1, 2005, the board shall provide to the Sunset Advisory
24 Commission and state auditor an initial assessment report regarding
25 the implementation of the business improvement plan. Additional
26 reports are due each quarter, beginning March 1, 2006.

27 (b) The board shall prepare the reports in a format

1 specified by the Sunset Advisory Commission and shall include in
2 the reports specific information demonstrating the progress made by
3 the board in implementing the goals and objectives of the business
4 improvement plan.

5 Sec. 1603.603. MANAGEMENT AUDIT. Not later than September
6 1, 2006, the state auditor shall conduct a management audit of the
7 board and deliver the audit report to the governor, the lieutenant
8 governor, the speaker of the house of representatives, and the
9 Sunset Advisory Commission. The audit report may include any
10 matter related to the management audit, but must include an
11 evaluation of:

12 (1) the board's business improvement plan, including
13 implementation of the plan; and

14 (2) compliance with the recommendations of the state
15 auditor and Sunset Advisory Commission.

16 Sec. 1603.604. EXPIRATION. This subchapter expires June 1,
17 2009.

18 ARTICLE 2. REGULATION OF BARBERING

19 SECTION 2.01. Section 1601.001(a)(3), Occupations Code, is
20 amended to read as follows:

21 (3) "Board" means the Texas [State] Board of Barbering
22 and Cosmetology [Barber Examiners].

23 SECTION 2.02. Section 1601.003, Occupations Code, is
24 amended to read as follows:

25 Sec. 1601.003. APPLICATION OF CHAPTER. This chapter does
26 not apply to a person who:

27 (1) does not represent or advertise to the public

1 directly or indirectly that the person is authorized by the board to
2 practice barbering; and

3 (2) is:

4 (A) a physician or registered nurse licensed in
5 this state and operating within the scope of the person's license;

6 (B) a commissioned or authorized medical or
7 surgical officer of the United States armed forces;

8 (C) a person regulated under Chapter 1602, if the
9 person practices within the scope of a permit, license, or
10 certificate issued by the board under that chapter [~~Texas~~
11 ~~Cosmetology Commission~~]; or

12 (D) an inmate in the institutional division of
13 the Texas Department of Criminal Justice who performs barbering
14 during the person's incarceration.

15 SECTION 2.03. Section 1601.253(b), Occupations Code, is
16 amended to read as follows:

17 (b) The board shall issue a Class A barber certificate to an
18 applicant who:

19 (1) complies with the application requirements of this
20 chapter;

21 (2) passes the examination with an average grade of at
22 least 75 percent;

23 (3) pays the required [a] fee [~~not to exceed \$100~~]; and

24 (4) possesses the other qualifications required by
25 this chapter.

26 SECTION 2.04. Sections 1601.254(a) and (c), Occupations
27 Code, are amended to read as follows:

(a) An applicant for a teacher's certificate must:

(1) be a Class A barber;

(2) have at least five years' experience as a practicing barber in a barbershop, two years of which occurred in the two years preceding the application date; and

(3) submit the required ~~[an]~~ examination fee ~~[not to exceed \$100]~~ with the application.

(c) The board shall issue a teacher's certificate to an applicant who:

(1) passes the appropriate examination; and

(2) pays the required ~~[a]~~ certificate fee ~~[not to exceed:~~

~~[(A) \$100, if the applicant fulfills the certificate requirements during the period beginning November 1 of an odd-numbered year and extending through October 31 of the following year; or~~

~~[(B) \$50, if the applicant fulfills the certificate requirements during the period beginning November 1 of an even-numbered year and extending through October 31 of the following year].~~

SECTION 2.05. Sections 1601.256(b) and (d), Occupations Code, are amended to read as follows:

(b) An applicant for a barber technician license must:

(1) be at least 16 years of age;

(2) have completed the seventh grade or the equivalent of the seventh grade;

(3) have completed a course of instruction in a

board-approved training program consisting of not less than 300 hours in a period of not less than eight weeks; and

(4) submit the required [~~a \$10 administration~~] fee with the application.

(d) The board shall issue a barber technician license to an applicant who:

(1) possesses the qualifications described by Subsection (b);

(2) passes the appropriate examination;

(3) pays the required [~~a~~] license fee [~~not to exceed \$100~~]; and

(4) has not committed an act that is a ground for denial of a license.

SECTION 2.06. Sections 1601.257(b) and (c), Occupations Code, are amended to read as follows:

(b) An applicant for a manicurist license must:

(1) be at least 16 years of age;

(2) have completed the seventh grade or the equivalent of the seventh grade;

(3) have completed a board-approved training program consisting of 600 hours of instruction in manicuring; and

(4) submit the required [~~a \$10 administration~~] fee with the application.

(c) The board shall issue a manicurist license to an applicant who:

(1) possesses the qualifications described by Subsection (b);

(2) passes the appropriate examination;

(3) pays the required [a] license fee [~~not to exceed \$30~~]; and

(4) has not committed an act that is a ground for denial of a license.

SECTION 2.07. Section 1601.260(a), Occupations Code, is amended to read as follows:

(a) An applicant for a permit to be a student in a barber school must:

(1) submit an enrollment application to the board in the form prescribed by the board;

(2) have completed the seventh grade;

(3) satisfy other requirements specified by the board; and

(4) submit with the application the required [a] nonrefundable application fee [~~in an amount not to exceed \$25~~].

SECTION 2.08. Section 1601.302(a), Occupations Code, is amended to read as follows:

(a) A person who opens a new barbershop shall submit, not later than the third day after the date the shop opens, an application to the board for a temporary barbershop permit accompanied by the required [an] inspection fee [~~not to exceed \$70~~].

SECTION 2.09. Section 1601.304(b), Occupations Code, is amended to read as follows:

(b) An applicant for a manicurist specialty shop permit must submit:

(1) an application that includes:

(A) the shop's address;

(B) the legal description of the premises for which the permit is sought; and

(C) any other information required by the board; and

(2) the required ~~[an]~~ inspection fee ~~[in an amount not to exceed \$50]~~.

SECTION 2.10. Section 1601.305, Occupations Code, is amended to read as follows:

Sec. 1601.305. ISSUANCE OF MANICURIST SPECIALTY SHOP PERMIT. The board shall issue a permanent manicurist specialty shop permit to an applicant if:

(1) the applicant holds a manicurist license; and

(2) the shop meets the minimum health standards for manicurist specialty shops set by the board, as determined by a board inspection under Section 1603.155, and any other requirements imposed by board rule.

SECTION 2.11. Section 1601.309, Occupations Code, is amended to read as follows:

Sec. 1601.309. PRACTICE BY COSMETOLOGIST AT SPECIALTY SHOP PROHIBITED. A person who holds a license, permit, or certificate issued by the board under Chapter 1602 ~~[Texas Cosmetology Commission]~~ may not practice under that authority at a specialty shop regulated under this chapter.

SECTION 2.12. Section 1601.353(b), Occupations Code, is amended to read as follows:

(b) An applicant for a barber school permit must submit to the board:

(1) a detailed drawing and chart of the proposed physical layout of the school, showing the departments, floor space, equipment, lights, and outlets;

(2) photographs of the proposed site for the school, including the interior and exterior of the building, rooms, and departments;

(3) a detailed copy of the training program;

(4) a copy of the catalogue and promotional literature of the school;

(5) a copy of the building lease or proposed building lease if the building is not owned by the school;

(6) a sworn statement showing the ownership of the school; and

(7) the required [a] permit fee [~~not to exceed \$1,000~~].

SECTION 2.13. Section 1601.402(c), Occupations Code, is amended to read as follows:

(c) The board shall issue a renewal certificate or license on receipt of a renewal application in the form prescribed by the board, accompanied by a renewal fee in an amount equal to the original certificate or license fee [~~but not to exceed \$100~~].

SECTION 2.14. The heading to Section 1601.404, Occupations Code, is amended to read as follows:

Sec. 1601.404. [~~RENEWAL OR~~] REINSTATEMENT OF EXPIRED CERTIFICATE OR LICENSE BY RETIREE.

SECTION 2.15. Section 1601.404(c), Occupations Code, is amended to read as follows:

(c) A Class A barber or license holder who retires from practice and whose certificate or license has been expired for more than five years may qualify for a new certificate or license by applying to the board and by:

(1) making a proper showing to the board, supported by a personal affidavit;

(2) paying the required ~~[an]~~ examination fee ~~[not to exceed \$100]~~;

(3) passing a satisfactory examination conducted by the board; and

(4) paying the fee for an original certificate or license.

SECTION 2.16. Section 1601.405(b), Occupations Code, is amended to read as follows:

(b) The board shall issue a renewal certificate or license on application and payment of the required ~~[a]~~ renewal fee not later than the 90th day after the date the person is released or discharged from active duty in the armed forces. ~~[The renewal fee is:~~

~~[(1) \$10 if the application and payment are made during the period beginning November 1 of an odd-numbered year and ending October 31 of the following year; or~~

~~[(2) \$5 if the application and payment are made during the period beginning November 1 of an even-numbered year and ending October 31 of the following year.]~~

1 SECTION 2.17. Section 1601.406, Occupations Code, is
2 amended to read as follows:

3 Sec. 1601.406. RENEWAL OF BARBERSHOP OR SPECIALTY SHOP
4 PERMIT. (a) A barbershop permit or specialty shop permit expires
5 on the second anniversary of the date of issuance [~~on July 1 of each~~
6 ~~odd-numbered year~~].

7 (b) A barbershop permit holder may renew the permit by
8 paying the required [~~a~~] renewal fee [~~not to exceed \$70~~].

9 (c) A specialty shop permit holder may renew the permit by
10 submitting to the board a renewal application accompanied by the
11 required [~~a~~] renewal fee [~~not to exceed \$50~~].

12 SECTION 2.18. Section 1601.407, Occupations Code, is
13 amended to read as follows:

14 Sec. 1601.407. RENEWAL OF BARBER SCHOOL PERMIT. (a) A
15 barber school permit expires on the first anniversary [~~September 1~~]
16 of the date of issuance [~~each year~~].

17 (b) A barber school may renew its permit by paying the
18 required [~~a~~] renewal fee [~~not to exceed \$300~~].

19 SECTION 2.19. Section 1601.454, Occupations Code, is
20 amended to read as follows:

21 Sec. 1601.454. PRACTICE AT FACILITY LICENSED OR PERMITTED
22 AS BARBER AND COSMETOLOGIST FACILITY [~~BY BOARD AND TEXAS~~
23 ~~COSMETOLOGY COMMISSION~~]. (a) The board may not adopt rules to
24 restrict or prohibit practice by a Class A barber or manicurist in a
25 facility solely because the facility is licensed or permitted by
26 [~~both~~] the board under both this chapter and Chapter 1602 [~~and the~~
27 ~~Texas Cosmetology Commission~~].

1 (b) If a facility has a license or permit under both this
2 chapter and Chapter 1602 [~~the board and the Texas Cosmetology~~
3 ~~Commission license or permit the same facility~~], the board may not
4 adopt rules requiring separate treatment of the barbers and
5 cosmetologists practicing in the facility or of their customers,
6 including separate:

7 (1) work areas for barbers and cosmetologists;

8 (2) waiting areas for customers of the barbers and
9 cosmetologists; or

10 (3) restrooms for the barbers and cosmetologists
11 practicing in the facility or for their customers.

12 SECTION 2.20. Section 1601.502, Occupations Code, is
13 amended to read as follows:

14 Sec. 1601.502. SUPERVISION OF BARBERSHOP. A person may not
15 operate a barbershop unless:

16 (1) the shop is at all times under the exclusive
17 supervision and management of a Class A barber; and

18 (2) no person is practicing on the premises by
19 authority of a license, permit, or certificate issued by the board
20 under Chapter 1602 [~~Texas Cosmetology Commission~~], except as
21 allowed by other law.

22 SECTION 2.21. Sections 1601.561(a) and (b), Occupations
23 Code, are amended to read as follows:

24 (a) A barber school shall maintain [~~submit~~] a monthly
25 progress report [~~to the board~~] regarding each student attending the
26 school. The report must certify the daily attendance record of each
27 student and the number of credit hours earned by each student during

1 the previous month.

2 (b) On a student's completion of a prescribed course of
3 instruction, the school shall notify [~~certify to~~] the board that
4 the student has completed the required number of hours and is
5 eligible to take the appropriate examination.

6 ARTICLE 3. REGULATION OF COSMETOLOGY

7 SECTION 3.01. Section 1602.001(1), Occupations Code, is
8 amended to read as follows:

9 (1) "Board" [~~"Commission"~~] means the Texas Board of
10 Barbering and Cosmetology [~~Commission~~].

11 SECTION 3.02. The heading to Subchapter D, Chapter 1602,
12 Occupations Code, is amended to read as follows:

13 SUBCHAPTER D. ADDITIONAL POWERS AND DUTIES RELATED TO COSMETOLOGY

14 SECTION 3.03. Sections 1602.153(a) and (b), Occupations
15 Code, are amended to read as follows:

16 (a) The board [~~commission~~] may request and, if necessary,
17 compel by subpoena:

18 (1) the attendance of a witness for examination under
19 oath; and

20 (2) the production for inspection and copying of
21 records and other evidence relevant to the investigation of an
22 alleged violation of this chapter.

23 (b) If a person fails to comply with a subpoena issued under
24 this section, the board [~~commission~~], acting through the attorney
25 general, may file suit to enforce the subpoena in a district court
26 in Travis County or in the county in which a hearing conducted by
27 the board [~~commission~~] may be held.

SECTION 3.04. Section 1602.251(c), Occupations Code, is amended to read as follows:

(c) A person licensed by the board [~~commission~~] may practice cosmetology only at a facility operated by a person holding a beauty shop license, private beauty culture school license, or other license issued by the board [~~commission~~].

SECTION 3.05. Section 1602.254(b), Occupations Code, is amended to read as follows:

(b) To be eligible for an operator license, an applicant must:

- (1) be at least 17 years of age;
- (2) have obtained a high school diploma or the equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and

(3) have completed:

- (A) 1,500 hours of instruction in a licensed beauty culture school; or

(B) 1,000 hours of instruction in beauty culture courses and 500 hours of related high school courses prescribed by the board [~~commission~~] in a vocational cosmetology program in a public school.

SECTION 3.06. Sections 1602.255(b) and (c), Occupations Code, are amended to read as follows:

(b) To be eligible for an instructor license, an applicant must:

- (1) be at least 18 years of age;

1 (2) have completed the 12th grade or its equivalent;

2 (3) hold an operator license; and

3 (4) have completed:

4 (A) a course consisting of 750 hours of
5 instruction in cosmetology courses and methods of teaching in:

6 (i) a licensed private beauty culture
7 school; or

8 (ii) a vocational training program of a
9 publicly financed postsecondary institution; or

10 (B) at least:

11 (i) two years of verifiable experience as a
12 licensed operator; and

13 (ii) 250 hours of instruction in
14 cosmetology in a board-approved [~~commission-approved~~] training
15 program.

16 (c) The board [~~commission~~] shall adopt rules for the
17 licensing of specialty instructors to teach specialty courses in
18 the practice of cosmetology defined in Sections 1602.002(7), (9),
19 and (10).

20 SECTION 3.07. Section 1602.256(b), Occupations Code, is
21 amended to read as follows:

22 (b) To be eligible for a manicurist license, an applicant
23 must:

24 (1) be at least 17 years of age;

25 (2) have obtained a high school diploma or the
26 equivalent of a high school diploma or have passed a valid
27 examination administered by a certified testing agency that

1 measures the person's ability to benefit from training; and

2 (3) have completed 600 hours of instruction in
3 manicuring through a board-approved [~~commission-approved~~] training
4 program.

5 SECTION 3.08. Section 1602.257(b), Occupations Code, is
6 amended to read as follows:

7 (b) To be eligible for a facialist specialty license, an
8 applicant must:

9 (1) be at least 17 years of age;

10 (2) have obtained a high school diploma or the
11 equivalent of a high school diploma or have passed a valid
12 examination administered by a certified testing agency that
13 measures the person's ability to benefit from training; and

14 (3) have completed 750 hours of instruction in
15 facialist specialty through a board-approved [~~commission-approved~~]
16 training program.

17 SECTION 3.09. Section 1602.258(b), Occupations Code, is
18 amended to read as follows:

19 (b) To be eligible for a specialty certificate, an applicant
20 must:

21 (1) be at least 17 years of age;

22 (2) have obtained a high school diploma or the
23 equivalent of a high school diploma or have passed a valid
24 examination administered by a certified testing agency that
25 measures the person's ability to benefit from training; and

26 (3) have the necessary requisites as determined by the
27 board [~~commission~~] in the particular specialty for which

1 certification is sought, including training through a
2 board-approved [~~commission-approved~~] training program.

3 SECTION 3.10. Section 1602.263(b), Occupations Code, is
4 amended to read as follows:

5 (b) The person shall:

6 (1) submit an application for the license or
7 certificate to the board [~~commission~~];

8 (2) pay a fee in an amount prescribed by the board
9 [~~commission~~]; and

10 (3) pay the applicable license or certificate fee.

11 SECTION 3.11. Section 1602.264(a), Occupations Code, is
12 amended to read as follows:

13 (a) The board [~~commission~~] shall issue a temporary license
14 to a person who:

15 (1) holds a license in another state or country;

16 (2) submits an application for a temporary license to
17 the board [~~commission~~]; and

18 (3) pays the required fee.

19 SECTION 3.12. Sections 1602.266(a) and (b), Occupations
20 Code, are amended to read as follows:

21 (a) The board [~~commission~~] shall require a student enrolled
22 in a school of cosmetology in this state to hold a permit stating
23 the student's name and the name of the school. The permit shall be
24 displayed in a reasonable manner at the school.

25 (b) The board [~~commission~~] shall issue a student permit to
26 an applicant who submits an application to the board [~~commission~~]
27 for a student permit accompanied by the required fee.

SECTION 3.13. Sections 1602.267(b) and (d), Occupations Code, are amended to read as follows:

(b) The board [~~commission~~] shall issue a shampoo apprentice permit to an applicant who[+]

[~~(1)~~] is at least 16 years of age[+ and

[~~(2)~~ submits a certificate of health as required by Section 1602.253].

(d) The board [~~commission~~] shall adopt rules as necessary to administer this section. The board [~~commission~~] may not require an applicant to:

(1) complete any hours of instruction at a cosmetology training program as a prerequisite for the issuance of a shampoo apprentice permit; or

(2) pay a fee for a shampoo apprentice permit.

SECTION 3.14. Sections 1602.302(b) and (c), Occupations Code, are amended to read as follows:

(b) An application for a beauty shop license must be accompanied by the required inspection fee and:

(1) be on a form prescribed by the board [~~commission~~];

(2) contain proof of the particular requisites for a beauty shop established by the board [~~commission~~]; and

(3) be verified by the applicant.

(c) The applicant is entitled to a beauty shop license if:

(1) the application complies with board [~~commission~~] rules;

(2) the applicant pays the required license fee; and

(3) the applicant has not committed an act that

1 constitutes a ground for denial of a license.

2 SECTION 3.15. Sections 1602.303(b) and (c), Occupations
3 Code, are amended to read as follows:

4 (b) An application for a private beauty culture school
5 license must be accompanied by the required license fee and
6 inspection fee and:

7 (1) be on a form prescribed by the board [~~commission~~];

8 (2) be verified by the applicant;

9 (3) contain a detailed floor plan of the school
10 building divided into two separate areas, one area for instruction
11 in theory and one area for clinic work; and

12 (4) contain a statement that the building:

13 (A) is fireproof;

14 (B) is of permanent construction;

15 (C) contains a minimum of 3,500 square feet of
16 floor space;

17 (D) has separate restrooms for male and female
18 students; and

19 (E) contains, or will contain before classes
20 begin, the equipment established by board [~~commission~~] rule as
21 sufficient to properly instruct a minimum of 50 students.

22 (c) The applicant is entitled to a private beauty culture
23 school license if:

24 (1) the board [~~commission~~] determines that the
25 applicant is financially sound and capable of fulfilling the
26 school's commitments for training;

27 (2) the applicant's facilities pass an inspection

1 conducted by the board under Section 1603.155 ~~[commission]~~; and

2 (3) the applicant has not committed an act that
3 constitutes a ground for denial of a license.

4 SECTION 3.16. Sections 1602.305(b) and (c), Occupations
5 Code, are amended to read as follows:

6 (b) An application for a specialty shop license must be
7 accompanied by the required inspection fee and:

- 8 (1) be on a form prescribed by the board ~~[commission]~~;
9 (2) contain proof of the particular requisites for a
10 specialty shop as established by the board ~~[commission]~~; and
11 (3) be verified by the applicant.

12 (c) The applicant is entitled to a specialty shop license
13 if:

- 14 (1) the application complies with board ~~[commission]~~
15 rules;
16 (2) the applicant pays the required license fee; and
17 (3) the applicant has not committed an act that
18 constitutes a ground for denial of a license.

19 SECTION 3.17. Sections 1602.306(b), (c), and (d),
20 Occupations Code, are amended to read as follows:

- 21 (b) An application for a booth rental license must:
22 (1) be on a form prescribed by the board ~~[commission]~~;
23 (2) contain information as required by board
24 ~~[commission]~~ rule; and
25 (3) be verified by the applicant.

26 (c) The applicant is entitled to a booth rental license if
27 the applicant:

1 (1) pays the application fee set by the board
2 ~~[commission]~~ in an amount reasonable and necessary to cover the
3 costs of administering the booth rental licensing program;

4 (2) complies with board ~~[commission]~~ rules; and

5 (3) has not committed an act that constitutes a ground
6 for denial of a license or certificate.

7 (d) The board ~~[commission]~~ shall adopt rules relating to the
8 information submitted for a booth rental license, including
9 information regarding the applicant's compliance with state and
10 federal tax laws.

11 SECTION 3.18. Section 1602.351(d), Occupations Code, is
12 amended to read as follows:

13 (d) The board ~~[commission]~~ may prorate a license or
14 certificate for the number of months the license or certificate is
15 valid.

16 SECTION 3.19. The heading to Section 1602.352, Occupations
17 Code, is amended to read as follows:

18 Sec. 1602.352. REQUIREMENT FOR FIRST ~~[PROCEDURE FOR]~~ RENEWAL
19 OF LICENSE ~~[OR REINSTATEMENT]~~.

20 SECTION 3.20. Section 1602.354, Occupations Code, is
21 amended to read as follows:

22 Sec. 1602.354. CONTINUING EDUCATION. The board
23 ~~[commission will]~~ by rule shall recognize, prepare, or administer
24 continuing education programs for the practice of cosmetology.
25 Participation in the programs is mandatory for all license
26 renewals.

27 SECTION 3.21. Section 1602.405, Occupations Code, is

amended to read as follows:

Sec. 1602.405. PRACTICE AT FACILITY LICENSED OR PERMITTED AS BARBER AND COSMETOLOGIST FACILITY ~~[BY COMMISSION AND STATE BOARD OF BARBER EXAMINERS]~~. (a) The board ~~[commission]~~ may not adopt rules to restrict or prohibit practice by a cosmetologist in a facility solely because the facility is licensed or permitted by ~~[both]~~ the board under both this chapter and Chapter 1601 ~~[commission and the State Board of Barber Examiners]~~.

(b) If a facility has a license or permit under both this chapter and Chapter 1601 ~~[the commission and the State Board of Barber Examiners license the same facility]~~, the board ~~[commission]~~ may not adopt rules requiring separate treatment of the barbers and cosmetologists practicing in the facility or of their customers, including separate:

- (1) work areas for barbers and cosmetologists;
- (2) waiting areas for customers of the barbers and cosmetologists; or
- (3) restrooms for the barbers and cosmetologists practicing in the facility or for their customers.

SECTION 3.22. Subchapter I, Chapter 1602, Occupations Code, is amended by adding Section 1602.408 to read as follows:

Sec. 1602.408. SANITIZATION OF INSTRUMENTS. (a) This section applies only to an establishment in which the practice of cosmetology as defined by Section 1602.002(10) is performed.

(b) Instruments used in an establishment to which this section applies must be sanitized by use of an autoclave.

SECTION 3.23. Section 1602.451(a), Occupations Code, is

amended to read as follows:

(a) The holder of a private beauty culture school license shall:

(1) maintain a sanitary establishment;

(2) maintain on its staff and on duty during business hours one full-time licensed instructor for each 25 students in attendance;

(3) maintain a daily record of students' attendance;

(4) establish regular class and instruction hours and grades;

(5) require a school term of not less than nine months and not less than 1,500 hours instruction for a complete course in cosmetology;

(6) require a school term of not less than 600 hours instruction for a complete course in manicuring;

(7) hold examinations before issuing diplomas;

(8) maintain a copy of the school's curriculum in a conspicuous place and verify that the curriculum is being followed;

(9) publish in the school's catalogue and enrollment contract a description of the refund policy required under Section 1602.458; and

~~(10) [submit to the executive director the name of each student within 10 days after the date the student enrolls in the school and notify the executive director of the withdrawal or graduation of a student not later than the 10th day after the date the student withdraws or graduates; and~~

~~[(11)]~~ provide the board ~~[commission]~~ with

1 information on:

2 (A) the current course completion rates of
3 students who attend a course of instruction offered by the school;
4 and

5 (B) job placement rates and employment rates of
6 students who complete the course of instruction.

7 SECTION 3.24. Section 1602.452, Occupations Code, is
8 amended to read as follows:

9 Sec. 1602.452. INFORMATION PROVIDED TO PROSPECTIVE
10 STUDENT. The holder of a private beauty culture school license
11 shall furnish each prospective student with:

12 (1) a course outline;
13 (2) a schedule of the tuition and other fees assessed;
14 (3) the refund policy required under Section 1602.458;
15 (4) the school grading policy and rules relating to
16 incomplete grades;

17 (5) the school rules of operation and conduct,
18 including rules relating to absences;

19 (6) the name, mailing address, and telephone number of
20 the board [~~commission~~] for the purpose of directing complaints to
21 the board [~~commission~~]; and

22 (7) the current rates of job placement and employment
23 of students who complete a course of training.

24 SECTION 3.25. Sections 1602.453(b), (c), and (d),
25 Occupations Code, are amended to read as follows:

26 (b) A school must submit to the board [~~commission~~] for
27 approval the course length and curriculum content for each course

1 offered by the school. The school may implement a course length and
2 curriculum content only after approval by the board [~~commission~~].

3 (c) Before issuing or renewing a license under this chapter,
4 the board [~~commission~~] shall require a school to account for each
5 course length and curriculum content.

6 (d) If a school manipulates a course length below or above
7 industry standards, the board [~~commission~~] shall place the school
8 on probation until:

9 (1) justification for the deviation is proven; or

10 (2) the course length is adjusted to meet industry
11 standards.

12 SECTION 3.26. Section 1602.454, Occupations Code, is
13 amended to read as follows:

14 Sec. 1602.454. STUDENT RECORD. A private beauty culture
15 school shall notify [~~send to~~] the board [~~commission a certified~~
16 ~~copy of a student's record, indicating all course hours completed~~
17 ~~by the student and whether the agreed tuition has been paid,~~] when a
18 [~~the~~] student[+]

19 [(1)] graduates from a course of training offered by
20 the school and is eligible to take the appropriate examination [~~, or~~

21 [(2)] ~~withdraws or transfers from a course of training~~
22 ~~without completion of the training~~].

23 SECTION 3.27. Section 1602.460(d), Occupations Code, is
24 amended to read as follows:

25 (d) The board [~~commission~~] may exempt a school from the
26 payment of interest if the school makes a good faith effort to
27 refund the tuition but is unable to locate the student. The school

1 shall provide to the board [~~commission~~] on request documentation of
2 the effort to locate the student.

3 SECTION 3.28. Section 1602.463(a), Occupations Code, is
4 amended to read as follows:

5 (a) If a private beauty culture school closes, the board
6 [~~commission~~] shall attempt to arrange for students enrolled in the
7 closed school to attend another private beauty culture school.

8 SECTION 3.29. Sections 1602.464(a) and (b), Occupations
9 Code, are amended to read as follows:

10 (a) If on January 1 of any year the amount in the private
11 beauty culture school tuition protection account is less than
12 \$200,000, the board [~~commission~~] shall collect a fee from each
13 private beauty culture school during that year by applying a
14 percentage to the school's renewal fee at a rate that will bring the
15 balance of the account to \$200,000.

16 (b) The comptroller shall invest the account in the same
17 manner as other state funds. Sufficient money from the account
18 shall be appropriated to the board [~~commission~~] for the purpose
19 described by Section 1602.463. The board [~~commission~~] shall
20 administer claims made against the account.

21 SECTION 3.30. Sections 1602.465(a), (b), and (c),
22 Occupations Code, are amended to read as follows:

23 (a) If the board [~~commission~~] has reasonable cause to
24 believe that a private beauty culture school has violated this
25 chapter or a rule adopted under this chapter, the board
26 [~~commission~~] may:

27 (1) order a peer review of the school; or

(2) suspend the admission of students to the school.

(b) The peer review shall be conducted by a peer review team consisting of knowledgeable persons selected by the board [~~commission~~]. The board [~~commission~~] shall attempt to provide a balance on each team between members assigned to the team who are from this state and those who are from other states.

(c) The team shall provide the board [~~commission~~] with an objective assessment of the content of the school's curriculum and its application.

ARTICLE 4. CONFORMING AMENDMENTS

SECTION 4.01. Section 232.002, Family Code, is amended to read as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. The following are licensing authorities subject to this chapter:

(1) Department of Agriculture;

(2) [~~Texas Commission on Alcohol and Drug Abuse,~~

~~(3)]~~ Texas Alcoholic Beverage Commission;

(3) ~~(4)]~~ Texas Appraiser Licensing and Certification Board;

(4) ~~(5)]~~ Texas Board of Architectural Examiners;

(5) ~~(6)]~~ Texas [~~State]~~ Board of Barbering and Cosmetology [~~Barber Examiners]~~;

(6) ~~(7)]~~ Texas Board of Chiropractic Examiners;

(7) ~~(8)]~~ Comptroller of Public Accounts;

(8) ~~(9)]~~ ~~Texas Cosmetology Commission,~~

~~(10)]~~ Court Reporters Certification Board;

(9) ~~(11)]~~ State Board of Dental Examiners;

1 (10) [~~(12)~~] Texas State Board of Examiners of
2 Dietitians;
3 (11) [~~(13)~~] Texas Funeral Service Commission;
4 (12) [~~(14)~~—Texas] Department of State Health Services
5 [Health];
6 (13) [~~(15)~~—Texas] Department of Aging and Disability
7 [Human] Services;
8 (14) [~~(16)~~] Texas Board of Professional Land
9 Surveying;
10 (15) [~~(17)~~] Texas Department of Licensing and
11 Regulation;
12 (16) [~~(18)~~] Texas State Board of Examiners of Marriage
13 and Family Therapists;
14 (17) [~~(19)~~] Texas State Board of Medical Examiners;
15 (18) [~~(20)~~] Midwifery Board;
16 (19) [~~(21)~~] Texas Commission on Environmental
17 Quality;
18 (20) [~~(22)~~] Board of Nurse Examiners;
19 (21) [~~(23)~~] Texas Board of Occupational Therapy
20 Examiners;
21 (22) [~~(24)~~] Texas Optometry Board;
22 (23) [~~(25)~~] Parks and Wildlife Department;
23 (24) [~~(26)~~] Texas State Board of Examiners of
24 Perfusionists;
25 (25) [~~(27)~~] Texas State Board of Pharmacy;
26 (26) [~~(28)~~] Texas Board of Physical Therapy
27 Examiners;

1 (27) [~~(29)~~] Texas State Board of Plumbing Examiners;
2 (28) [~~(30)~~] Texas State Board of Podiatric Medical
3 Examiners;
4 (29) [~~(31)~~] Polygraph Examiners Board;
5 (30) [~~(32)~~] Texas [~~Commission on~~] Private Security
6 Board;
7 (31) [~~(33)~~] Texas State Board of Examiners of
8 Professional Counselors;
9 (32) [~~(34)~~] Texas Board of Professional Engineers;
10 (33) [~~(35)~~] Department of Family and Protective [~~and~~
11 ~~Regulatory~~] Services;
12 (34) [~~(36)~~] Texas State Board of Examiners of
13 Psychologists;
14 (35) [~~(37)~~] Texas State Board of Public Accountancy;
15 (36) [~~(38)~~] Department of Public Safety of the State
16 of Texas;
17 (37) [~~(39)~~] Public Utility Commission of Texas;
18 (38) [~~(40)~~] Railroad Commission of Texas;
19 (39) [~~(41)~~] Texas Real Estate Commission;
20 (40) [~~(42)~~] State Bar of Texas;
21 (41) [~~(43)~~] Texas State Board of Social Worker
22 Examiners;
23 (42) [~~(44)~~] State Board of Examiners for
24 Speech-Language Pathology and Audiology;
25 (43) [~~(45)~~] Texas Structural Pest Control Board;
26 (44) [~~(46)~~] Board of Tax Professional Examiners;
27 (45) [~~(47)~~] Secretary of State;

1 (46) [~~(48)~~] Supreme Court of Texas;
2 (47) [~~(49)~~] Texas Transportation Commission;
3 (48) [~~(50)~~] State Board of Veterinary Medical
4 Examiners;
5 (49) [~~(51)~~] Texas Ethics Commission;
6 (50) [~~(52)~~] Advisory Board of Athletic Trainers;
7 (51) [~~(53)~~] State Committee of Examiners in the
8 Fitting and Dispensing of Hearing Instruments;
9 (52) [~~(54)~~] Texas Board of Licensure for Professional
10 Medical Physicists;
11 (53) [~~(55)~~] Texas Department of Insurance;
12 (54) [~~(56)~~] Texas Board of Orthotics and Prosthetics;
13 (55) [~~(57)~~] savings and loan commissioner;
14 (56) [~~(58)~~] Texas Juvenile Probation Commission; and
15 (57) [~~(59)~~] Texas Lottery Commission under Chapter
16 466, Government Code.

17 SECTION 4.02. Section 411.122(d), Government Code, is
18 amended to read as follows:

19 (d) The following state agencies are subject to this
20 section:

- 21 (1) Texas Appraiser Licensing and Certification
22 Board;
23 (2) Texas Board of Architectural Examiners;
24 (3) Texas [~~State~~] Board of Barbering and Cosmetology
25 [~~Barber Examiners~~];
26 (4) Texas Board of Chiropractic Examiners;
27 (5) [~~Texas Cosmetology Commission~~];

1 ~~[(6)]~~ State Board of Dental Examiners;
2 (6) ~~[(7)]~~ Texas Board of Professional Engineers;
3 (7) ~~[(8)]~~ Texas Funeral Service Commission;
4 (8) ~~[(9)]~~ Texas Board of Professional Geoscientists;
5 (9) ~~[(10) — Texas]~~ Department of State Health Services,
6 except as provided by Section 411.110, and agencies attached to the
7 department, including:

8 (A) Texas State Board of Examiners of Dietitians;
9 (B) Texas State Board of Examiners of Marriage
10 and Family Therapists;

11 (C) Midwifery Board;

12 (D) Texas State Board of Examiners of
13 Perfusionists;

14 (E) Texas State Board of Examiners of
15 Professional Counselors;

16 (F) Texas State Board of Social Worker Examiners;

17 (G) State Board of Examiners for Speech-Language
18 Pathology and Audiology;

19 (H) Advisory Board of Athletic Trainers;

20 (I) State Committee of Examiners in the Fitting
21 and Dispensing of Hearing Instruments;

22 (J) Texas Board of Licensure for Professional
23 Medical Physicists; and

24 (K) Texas Board of Orthotics and Prosthetics;

25 (10) ~~[(11)]~~ Texas Board of Professional Land
26 Surveying;

27 (11) ~~[(12)]~~ Texas Department of Licensing and

1 Regulation, except as provided by Section 411.093;
2 (12) [~~(13)~~] Texas Commission on Environmental
3 Quality;
4 (13) [~~(14)~~] Texas Board of Occupational Therapy
5 Examiners;
6 (14) [~~(15)~~] Texas Optometry Board;
7 (15) [~~(16)~~] Texas State Board of Pharmacy;
8 (16) [~~(17)~~] Texas Board of Physical Therapy
9 Examiners;
10 (17) [~~(18)~~] Texas State Board of Plumbing Examiners;
11 (18) [~~(19)~~] Texas State Board of Podiatric Medical
12 Examiners;
13 (19) [~~(20)~~] Polygraph Examiners Board;
14 (20) [~~(21)~~] Texas State Board of Examiners of
15 Psychologists;
16 (21) [~~(22)~~] Texas Real Estate Commission;
17 (22) [~~(23)~~] Board of Tax Professional Examiners;
18 (23) [~~(24)~~] Texas Department of Transportation;
19 (24) [~~(25)~~] State Board of Veterinary Medical
20 Examiners;
21 ~~[(26) Board of Vocational Nurse Examiners,]~~
22 (25) [~~(27)~~] Texas Department of Housing and Community
23 Affairs;
24 (26) [~~(28)~~] secretary of state;
25 (27) [~~(29)~~] state fire marshal;
26 (28) [~~(30)~~] Texas Education Agency; and
27 (29) [~~(31)~~] Department of Agriculture.

SECTION 4.03. Section 2054.352(a), Government Code, is amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353[~~, as added by Chapter 353, Acts of the 77th Legislature, Regular Session, 2001~~]:

(1) Texas [~~State~~] Board of Barbering and Cosmetology [~~Barber Examiners~~];

(2) Texas Board of Chiropractic Examiners;

(3) [~~Texas Cosmetology Commission~~;

[~~(4)~~] Court Reporters Certification Board;

(4) [~~(5)~~] State Board of Dental Examiners;

(5) [~~(6)~~] Texas Funeral Service Commission;

(6) [~~(7)~~] Texas Board of Professional Land Surveying;

(7) [~~(8)~~] Texas State Board of Medical Examiners;

(8) [~~(9)~~] Board of Nurse Examiners;

(9) [~~(10)~~] Texas Optometry Board;

(10) [~~(11)~~] Texas Structural Pest Control Board;

(11) [~~(12)~~] Texas State Board of Pharmacy;

(12) [~~(13)~~] Executive Council of Physical Therapy and Occupational Therapy Examiners;

(13) [~~(14)~~] Texas State Board of Plumbing Examiners;

(14) [~~(15)~~] Texas State Board of Podiatric Medical Examiners;

(15) [~~(16)~~] Board of Tax Professional Examiners;

(16) [~~(17)~~] Polygraph Examiners Board;

(17) [~~(18)~~] Texas State Board of Examiners of Psychologists;

1 (18) [~~(19)~~] State Board of Veterinary Medical
2 Examiners;
3 (19) [~~(20)~~] Texas Real Estate Commission;
4 (20) [~~(21)~~] Texas Appraiser Licensing and
5 Certification Board;
6 (21) [~~(22)~~] Texas Department of Licensing and
7 Regulation;
8 (22) [~~(24)~~] Texas State Board of Public Accountancy;
9 (23) [~~(25)~~] State Board for Educator Certification;
10 (24) [~~(26)~~] Texas Board of Professional Engineers;
11 (25) [~~(27)~~—~~Texas~~] Department of State Health
12 Services;
13 (26) [~~(28)~~] Texas Board of Architectural Examiners;
14 (27) [~~(29)~~] Texas Racing Commission;
15 (28) [~~(30)~~] Commission on Law Enforcement Officer
16 Standards and Education; and
17 (29) [~~(31)~~] Texas [~~Commission on~~] Private Security
18 Board.

19 ARTICLE 5. REPEALER

20 SECTION 5.01. The following laws are repealed:

21 (1) Subchapters B, C, D, E, and O, Chapter 1601,
22 Occupations Code;
23 (2) Subchapters B, C, E, and K, Chapter 1602,
24 Occupations Code; and
25 (3) Sections 1601.004, 1601.252, 1601.261, 1601.262,
26 1601.263, 1601.264, 1601.266, 1601.356, 1601.402(d), 1601.403,
27 1601.404(a) and (b), 1601.408, 1601.601, 1601.651, 1601.654,

1 1602.004, 1602.151, 1602.152, 1602.154, 1602.155, 1602.252,
2 1602.253, as amended by Chapter 1282, Acts of the 78th Legislature,
3 Regular Session, 2003, 1602.259, 1602.260, 1602.261, 1602.264,
4 1602.265, 1602.303(d), 1602.304(b), 1602.352(b)-(f), 1602.407,
5 1602.551, 1602.552, 1602.553, and 1602.555, Occupations Code.

6 ARTICLE 6. TRANSITION AND EFFECTIVE DATE

7 SECTION 6.01. (a) The State Board of Barber Examiners and
8 the Texas Cosmetology Commission are abolished but continue in
9 existence until September 1, 2006, for the sole purpose of
10 transferring obligations, property, employees, rights, powers, and
11 duties to the Texas Board of Barbering and Cosmetology created
12 under Chapter 1603, Occupations Code, as added by this Act. The
13 Texas Board of Barbering and Cosmetology assumes all of the
14 obligations, property, employees, rights, powers, and duties of the
15 State Board of Barber Examiners and the Texas Cosmetology
16 Commission, as they exist immediately before the effective date of
17 this Act. All unexpended funds appropriated to the State Board of
18 Barber Examiners and the Texas Cosmetology Commission are
19 transferred to the Texas Board of Barbering and Cosmetology. The
20 transfer of the obligations, property, employees, rights, powers,
21 and duties of the State Board of Barber Examiners and the Texas
22 Cosmetology Commission to the Texas Board of Barbering and
23 Cosmetology must be completed not later than September 1, 2006.

24 (b) All rules of the State Board of Barber Examiners and the
25 Texas Cosmetology Commission are continued in effect as rules of
26 the Texas Board of Barbering and Cosmetology until superseded by a
27 rule of the Texas Board of Barbering and Cosmetology. A

1 certificate, license, or permit issued by the State Board of Barber
2 Examiners or the Texas Cosmetology Commission is continued in
3 effect as provided by the law in effect immediately before the
4 effective date of this Act. A complaint, investigation, contested
5 case, or other proceeding pending on the effective date of this Act
6 is continued without change in status after the effective date of
7 this Act.

8 (c) A reference in another law or an administrative rule to
9 the State Board of Barber Examiners or the Texas Cosmetology
10 Commission means the Texas Board of Barbering and Cosmetology.

11 SECTION 6.02. (a) In making the initial appointments to
12 the Texas Board of Barbering and Cosmetology, the governor shall
13 appoint:

14 (1) one person described by Section 1603.051(a)(1),
15 Occupations Code, as added by this Act, one person described by
16 Section 1603.051(a)(2), Occupations Code, as added by this Act, and
17 one public member to serve terms expiring February 1, 2007;

18 (2) one person described by Section 1603.051(a)(1),
19 Occupations Code, as added by this Act, one person described by
20 Section 1603.051(a)(2), Occupations Code, as added by this Act, and
21 one public member to serve terms expiring February 1, 2009; and

22 (3) one person described by Section 1603.051(a)(1),
23 Occupations Code, as added by this Act, one person described by
24 Section 1603.051(a)(2), Occupations Code, as added by this Act, and
25 one public member to serve terms expiring February 1, 2011.

26 (b) Not later than March 1, 2005, each initial board member
27 appointed under this section must complete the training required by

1 Section 1603.059, Occupations Code, as added by this Act. Before
2 March 1, 2005, Section 1603.059(a) does not apply to an initial
3 board member.

4 SECTION 6.03. Not later than the 90th day after the date
5 that a majority of the members of the Texas Board of Barbering and
6 Cosmetology are appointed under Section 6.02 of this article and
7 qualify for office, the board shall appoint an executive director
8 under Section 1603.101, Occupations Code, as added by this Act. A
9 person who is the executive director of the State Board of Barber
10 Examiners or the Texas Cosmetology Commission on, or within one
11 year preceding, the effective date of this Act, is not eligible to
12 be employed as the initial executive director under this section.

13 SECTION 6.04. This Act takes effect September 1, 2005.