

## CHAPTER 476

## BARBERING

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**476.014 Short title.**—This act may be cited as the "Barbers' Act."

**History.**—ss. 1, 28, ch. 78-155; ss. 1, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 85-297; s. 4, ch. 91-429.

**476.024 Purpose.**—The Legislature recognizes that barbering is potentially dangerous to the public in that barbers work in close proximity to patrons, thus risking transmission of disease and vermin, apply various caustic chemical agents to the hair and scalp of patrons, and employ instruments which could harm patrons if improperly used. Therefore, it is deemed necessary in the interest of public health, safety, and welfare to regulate the practice of barbering in this state. However, restrictions should be imposed only to the extent necessary to protect the public from these recognized dangers and in a manner which will not unreasonably affect the competitive market.

**History.**—ss. 2, 28, ch. 78-155; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 85-297; s. 4, ch. 91-429.

**476.034 Definitions.**—As used in this act:

(1) "Barber" means a person who is licensed to engage in the practice of barbering in this state under the authority of this chapter.

(2) "Barbering" means any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.

(3) "Barbershop" means any place of business wherein the practice of barbering is carried on.

(4) "Board" means the Barbers' Board.

(5) "Department" means the Department of Business and Professional Regulation.

**History.**—ss. 3, 28, ch. 78-155; ss. 2, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 1, 19, 20, ch. 85-297; s. 31, ch. 89-344; s. 4, ch. 91-429; s. 164, ch. 94-218.

**476.044 Exemptions.**—This chapter does not apply to the following persons when practicing pursuant to their professional responsibilities and duties:

(1) Persons authorized under the laws of this state to practice medicine, surgery, osteopathy, chiropractic, naturopathy, or podiatry;

(2) Commissioned medical or surgical officers of the United States Armed Forces hospital service;

(3) Licensed nurses under the laws of this state;

(4) Persons practicing cosmetology under the laws of this state;

(5) Persons employed in federal, state, or local institutions, hospitals, or military bases as barbers whose practice is limited to the inmates, patients, or authorized military personnel of such institutions, hospitals, or bases; or

(6) Persons who practice only shampooing as defined in s. 477.013 and whose practice is limited to the acts described therein.

(7) Persons whose occupation or practice is confined solely to cutting, trimming, polishing, or cleansing the fingernails of any person when said cutting, trimming, polishing, or cleansing is done in a barbershop licensed pursuant to this chapter which is carrying on a regular and customary business of barbering, and such individual has been practicing the activities set forth in this subsection prior to October 1, 1985.

**History.**—ss. 4, 28, ch. 78-155; ss. 2, 3, ch. 81-318; ss. 2, 19, 20, ch. 85-297; s. 9, ch. 87-69; s. 27, ch. 88-392; s. 4, ch. 91-429.

**476.054 Barbers' Board.**—

(1) There is created within the department the Barbers' Board, consisting of seven members who shall be appointed by the Governor, subject to confirmation by the Senate.

(2) Five members of the board shall be barbers who have practiced the occupation of barbering in this state for at least 5 years. The remaining two members of the board shall be citizens of the state who are not presently licensed barbers. No person shall be appointed to the board who is in any way connected with the manufacture, rental, or wholesale distribution of barber equipment and supplies.

(3) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years; and such members shall serve until their successors are appointed and qualified. The Governor may remove any member for cause.

(4) No person shall be appointed to serve more than two consecutive terms. Any vacancy shall be filled by appointment by the Governor for the unexpired portion of the term.

(5) Each board member shall receive per diem and mileage allowances as provided in s. 112.061 from the place of his residence to the place of meeting and the return therefrom.

(6) Each board member shall be held accountable to the Governor for the proper performance of all duties and obligations of such board member's office. The Governor shall cause to be investigated any complaints or unfavorable reports received concerning the actions of the board or its individual members and shall take appropriate action thereon, which may include removal of any board member for malfeasance, misfeasance, neglect of duty, commission of a felony, drunkenness, incompetency, or permanent inability to perform his official duties.

**History.**—ss. 5, 28, ch. 78-155; ss. 3, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 3, 19, 20, ch. 85-297; s. 4, ch. 91-429; s. 165, ch. 94-218.

#### **476.064 Organization; headquarters; personnel; meetings.—**

(1) The board shall annually elect a chairman and a vice chairman from its number. The board shall maintain its headquarters in Tallahassee.

(2) The department shall appoint or employ such personnel as may be necessary to assist the board in exercising the powers and performing the duties and obligations set forth in this act. Such personnel need not be licensed barbers and shall not be members of the board. Such personnel shall be authorized to do and perform such duties and work as may be assigned by the board.

(3) The board shall hold an annual meeting and such other meetings during the year as it may determine to be necessary. The chairman of the board may call other meetings at his discretion. A quorum of the board shall consist of not less than four members.

(4) The board is authorized to adopt rules in accordance with the provisions of chapter 120 to carry out the provisions of this chapter.

**History.**—ss. 6, 28, ch. 78-155; ss. 4, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 4, 19, 20, ch. 85-297; s. 4, ch. 91-429.

#### **476.074 Legal, investigative, and inspection services.—**

(1) The department shall provide all legal services needed to carry out the provisions of this act.

(2) The department shall provide all investigative services required by the board or the department in carrying out the provisions of this act.

(3) The department shall provide all inspection services.

**History.**—ss. 6, 7, 28, ch. 78-155; ss. 5, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 85-297; s. 4, ch. 91-429.

#### **476.114 Examination; prerequisites.—**

(1) A person desiring to be licensed as a barber shall apply to the department for licensure.

(2) An applicant shall be entitled to take the licensure examination to practice barbering if the applicant:

- (a) Is at least 16 years of age;
- (b) Pays the required application fee; and

(c) Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or

2. Has received a minimum of 1,200 hours of training as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

- a. A school of barbering licensed pursuant to chapter 246;
- b. A barbering program within the public school system; or
- c. A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person passes the examination, he shall have satisfied this requirement; but if he fails the examination, he shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

(3) An applicant who meets the requirements set forth in subparagraphs (2)(c)1. and 2. who fails to pass the examination may take subsequent examinations as many times as necessary to pass, except that the board shall specify by rule reasonable timeframes for rescheduling the examination and shall adopt rules specifying additional training requirements for applicants who, after the third attempt, fail to pass the examination. Prior to reexamination, the applicant must file the appropriate form and pay the reexamination fee as required by rule.

**History.**—ss. 16, 28, ch. 78-155; ss. 7, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 5, 19, 20, ch. 85-297; s. 1, ch. 87-390; s. 29, ch. 89-344; s. 27, ch. 91-220; s. 4, ch. 91-429.

#### **476.124 Application for examination.—**Each applicant for an examination shall:

(1) Make application to the department at least 30 days prior to the examination date on forms prepared and furnished by the department;

(2) Furnish to the department two signed photographs of the applicant, of sufficient size to identify the applicant, one photograph to accompany the application and one photograph to be returned to the applicant for presentation to the examiners when the applicant appears for examination; and

(3) Pay the required fee to the department.

**History.**—ss. 11, 28, ch. 78-155; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 85-297; s. 4, ch. 91-429.

#### **476.134 Time, place, and subjects of examination.**

(1) The department shall conduct examinations of applicants for licenses as barbers not less than four times each year at such time and place as the department may determine. The examination of applicants for licenses as barbers may include both a practical demonstration and a written test. The board shall have the authority to promulgate rules with respect to the examination of applicants for licensure. The board may provide rules with respect to written or practical examinations in such manner as the board may deem fit.

(2) The board shall adopt rules specifying the areas of competency to be covered by the examination. Such rules shall include the relative weight assigned in grading each area. All areas tested shall be reasonably related to the protection of the public and the appli-

cant's competency to practice barbering in a manner which will not endanger the public. The department may employ professional testing services to formulate or to assist in administering the examinations.

(3) The department shall be in charge of administering all the examinations and shall control the personnel assisting in giving the examinations. The written examination shall be identifiable by number only until completion of the grading process. Each applicant shall be informed of his grade on the examination by the department as soon as practicable.

(4) An accurate record of each examination shall be made; and that record, together with all examination papers, shall be filed with the department and shall be kept for reference and inspection following the examination. The department shall make a record of the grade of each applicant on each subject covered by that examination, and that grade shall be part of the examination papers to be preserved.

(5) The board shall ensure that examinations comply with state and federal equal employment opportunity guidelines.

(6) The department shall, in accordance with rules established by the board, examine persons who file applications for licensure under this chapter in all matters pertaining to the practice of barbering.

**History.**—ss. 12, 28, ch. 78-155; ss. 8, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 6, 7, 19, 20, ch. 85-297; s. 4, ch. 91-429.

#### **476.144 Licensure.—**

(1) The department shall license any applicant who the board certifies is qualified to practice barbering in this state.

(2) The board shall certify for licensure any applicant who satisfies the requirements of s. 476.114, and who passes the examination administered by the department, achieving a passing grade as established by board rule.

(3) Upon an applicant passing the examination and paying the initial licensing fee, the department shall issue a license.

(4) The department shall keep a record relating to the issuance, refusal, and renewal of licenses. Such record shall contain the name, place of business, and residence of each licensed barber and the date and number of his license.

(5) The board shall adopt rules specifying procedures for the licensure by endorsement of practitioners desiring to be licensed in this state who hold a current active license in another state or country and who have met qualifications substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state.

(6) A person may apply for a restricted license to practice barbering. The board shall adopt rules specifying procedures for an applicant to obtain a restricted license if the applicant:

(a) Holds or has within the previous 5 years held an active valid license to practice barbering in another state;

(b) Has not been disciplined relating to the practice of barbering in the previous 15 years; and

(c) Passes a practical examination administered by the department.

The restricted license shall limit the licensee's practice to those specific areas in which the applicant has demonstrated competence pursuant to rules adopted by the board.

**History.**—ss. 13, 28, ch. 78-155; ss. 2, 3, ch. 81-318; ss. 8, 19, 20, ch. 85-297; s. 2, ch. 87-390; s. 4, ch. 91-429; s. 154, ch. 92-149.

#### **476.154 Biennial renewal of licenses.—**

(1) Each licensed barber who continues in active practice or service shall renew his license biennially and pay the required fee.

(2) Any license or certificate of registration issued pursuant to this act for a period less than the established biennial issuance period may be issued for that lesser period of time, and the department shall adjust the required fee accordingly. The board shall adopt rules providing for such partial period fee adjustments.

(3)(a) The department shall renew a license upon receipt of the renewal application and fee.

(b) The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

**History.**—ss. 14, 28, ch. 78-155; ss. 9, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 65, 116, ch. 83-329; ss. 9, 19, 20, ch. 85-297; s. 4, ch. 91-429.

#### **476.155 Inactive status; reactivation of inactive license.—**

(1) A barber's license that has become inactive may be reactivated under s. 476.154 upon application to the department.

(2) The board shall promulgate rules relating to licenses which have become inactive and for the renewal of inactive licenses. The board shall prescribe by rule a fee not to exceed \$100 for the reactivation of an inactive license and a fee not to exceed \$50 for the renewal of an inactive license.

**History.**—ss. 109, 117, ch. 83-329; ss. 10, 19, 20, ch. 85-297; s. 52, ch. 89-162; s. 30, ch. 89-344; s. 4, ch. 91-429; s. 227, ch. 94-119.

**476.178 Schools of barbering; licensure.—**No private school of barbering shall be permitted to operate without a license issued by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools pursuant to chapter 246. However, this section shall not be construed to prevent certification by the Department of Education of barber training programs within the public school system or to prevent government operation of any other program of barbering in this state.

**History.**—ss. 12, 20, ch. 85-297; s. 32, ch. 89-344; s. 4, ch. 91-429.

#### **476.184 Barbershop licensure; requirements; fee; inspection; license display.—**

(1) No barbershop shall be permitted to operate without a license issued by the department.

(2) The board shall adopt rules governing the licensure and operation of a barbershop and its facilities, personnel, safety and sanitary requirements, and the license application and granting process.

(3) Any person, firm, or corporation desiring to operate a barbershop in the state shall submit to the department an application upon forms provided by the department and accompanied by any relevant information requested by the department and by an application fee.

(4) Upon receiving the application, the department may cause an investigation to be made of the proposed barbershop.

(5) When an applicant fails to meet all the requirements provided in this section, the department shall deny the application in writing and shall list the specific requirements not met. No applicant denied licensure because of failure to meet the requirements of this section shall be precluded from reapplying for licensure.

(6) When the department determines that the proposed barbershop meets the requirements set forth in this section, the department shall grant the license upon such conditions as it deems proper and upon payment of the original licensing fee.

(7) No license for operation of a barbershop may be transferred from the name of the original licensee to another. It may be transferred from one location to another only after inspection and approval by the department, which approval shall not be unreasonably withheld, and payment of a \$125 transfer fee.

(8) Renewal of license registration for barbershops shall be accomplished pursuant to rules adopted by the board. The board is further authorized to adopt rules governing delinquent renewal of licenses and may impose penalty fees for delinquent renewal.

(9) The board is authorized to adopt rules governing the operation and periodic inspection of barbershops licensed under this chapter.

(10) Each barbershop shall display, in a conspicuous place, the barbershop license and each individual licensee's certificate.

**History.**—ss. 18, 28, ch. 78-155; ss. 2, 3, ch. 81-318; s. 66, ch. 83-329; ss. 13, 19, 20, ch. 85-297; s. 4, ch. 91-429; s. 155, ch. 92-149.

#### **476.188 Barber services to be performed in registered barbershop; exception.—**

(1) Barber services shall be performed only by licensed barbers in registered barbershops, except as otherwise provided in this section.

(2) Pursuant to rules established by the board, barber services may be performed by a licensed barber in a location other than a registered barbershop, including, but not limited to, a nursing home, hospital, or residence, when a client for reasons of ill health is unable to go to a registered barbershop. Arrangements for the performance of barber services in a location other than a registered barbershop shall be made only through a registered barbershop.

(3) Any person who holds a valid barber's license in any state or who is authorized to practice barbering in any country, territory, or jurisdiction of the United States may perform barber services in a location other than a registered barbershop when such services are performed in connection with the motion picture, fashion photography, theatrical, or television industry; a manufacturer trade show demonstration; or an educational seminar.

**History.**—ss. 67, 117, ch. 83-329; ss. 19, 20, ch. 85-297; s. 46, ch. 89-374; s. 4, ch. 91-429.

#### **476.192 Fees; disposition.—**

(1) The board shall set by rule fees according to the following schedule:

(a) For barbers, fees for original licensing, license renewal, and delinquent renewal shall not exceed \$100.

(b) For barbers, fees for endorsement application, examination, and reexamination shall not exceed \$150.

(c) For barbershops, fees for license application, original licensing, license renewal, and delinquent renewal shall not exceed \$150.

(d) For duplicate licenses and certificates, fees shall not exceed \$25.

(2) All moneys collected by the department from fees authorized by this chapter shall be paid into the Professional Regulation Trust Fund in the department and shall be applied in accordance with ss. 215.37 and 455.219.

(3) The Legislature may appropriate any excess moneys from this fund to the General Revenue Fund.

**History.**—ss. 14, 20, ch. 85-297; s. 3, ch. 87-390; s. 53, ch. 89-162; s. 33, ch. 89-344; s. 47, ch. 89-374; s. 4, ch. 91-429.

#### **476.194 Prohibited acts.—**

(1) It is unlawful for any person to:

(a) Engage in the practice of barbering without an active license as a barber issued pursuant to the provisions of this act by the department.

(b) Engage in willful or repeated violations of this act or of any of the rules adopted by the board.

(c) Hire or employ any person to engage in the practice of barbering unless such person holds a valid license as a barber.

(d) Obtain or attempt to obtain a license for money other than the required fee or any other thing of value or by fraudulent misrepresentations.

(e) Own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a barbershop:

1. Which is not licensed under the provisions of this chapter; or

2. In which a person not licensed as a barber is permitted to perform services.

(f) Use or attempt to use a license to practice barbering when said license is suspended or revoked.

(2) Any person who violates any provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—ss. 19, 26, ch. 78-155; ss. 10, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 15, 19, 20, ch. 85-297; s. 109, ch. 91-224; s. 4, ch. 91-429.

#### **476.204 Penalties.—**

(1) It is unlawful for any person to:

(a) Hold himself out as a barber unless duly licensed as provided in this chapter.

(b) Operate any barbershop unless it has been duly licensed as provided in this chapter.

(c) Permit an employed person to practice barbering unless duly licensed as provided in this chapter.

(d) Present as his own the license of another.

(e) Give false or forged evidence to the department in obtaining any license provided for in this chapter.

(f) Impersonate any other licenseholder of like or different name.

(g) Use or attempt to use a license that has been revoked.

(h) Violate any provision of s. 455.227(1), s. 476.194, or s. 476.214.

(i) Violate or refuse to comply with any provision of this chapter or chapter 455 or a rule or final order of the board.

(2) Any person who violates any provision of this section shall be subject to one or more of the following penalties, as determined by the board:

(a) Revocation or suspension of any license or registration issued pursuant to this chapter.

(b) Issuance of a reprimand or censure.

(c) Imposition of an administrative fine not to exceed \$500 for each count or separate offense.

(d) Placement on probation for a period of time and subject to such reasonable conditions as the board may specify.

(e) Refusal to certify to the department an applicant for licensure.

**History.**—ss. 20, 28, ch. 78-155; s. 131, ch. 79-164; ss. 2, 3, ch. 81-318; ss. 16, 19, 20, ch. 85-297; s. 34, ch. 89-344; s. 4, ch. 91-429; s. 10, ch. 94-119.

**476.214 Grounds for suspending, revoking, or refusing to grant license or certificate.—**

(1) The board shall have the power to revoke or suspend any license, registration card, or certificate of registration issued pursuant to this act, or to reprimand, censure, deny subsequent licensure of, or otherwise discipline any holder of a license, registration card, or certificate of registration issued pursuant to this act, for any of the following causes:

(a) Gross malpractice or gross incompetency in the practice of barbering;

(b) Practice by a person knowingly having an infectious or contagious disease; or

(c) Commission of any of the offenses described in s. 476.194.

(2) The board shall adopt rules relating to the suspension or revocation of licenses or certificates of registration under this section pursuant to the provisions of chapter 120.

(3) The board shall keep a record of its disciplinary proceedings against holders of licenses or certificates of registration issued pursuant to this act.

**History.**—ss. 21, 28, ch. 78-155; ss. 11, 13, 15, 25, 30, 34, 62, ch. 80-406; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 85-297; s. 4, ch. 91-429.

**476.234 Civil proceedings.**—In addition to any other remedy, the department may file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this act or the lawful rules or orders of the board, commission, or department.

**History.**—ss. 23, 28, ch. 78-155; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 85-297; s. 4, ch. 91-429.

**476.244 Administrative proceedings.**—All hearings and other administrative proceedings shall be conducted pursuant to the provisions of chapter 120.

**History.**—ss. 24, 28, ch. 78-155; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 85-297; s. 4, ch. 91-429.

**476.254 Saving clause.**—Each barber's assistant registered by the department and each barber instructor with the Department of Education on September 30, 1985, shall be entitled to hold and renew such registration in accordance with the laws existing prior to October 1, 1985.

**History.**—ss. 25, 28, ch. 78-155; s. 132, ch. 79-164; ss. 2, 3, ch. 81-318; ss. 17, 19, 20, ch. 85-297; s. 4, ch. 91-429.