

## CHAPTER 154

## BARBERS

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**154.01 REGISTRATION MANDATORY.**

(a) No person shall practice, offer to practice, or attempt to practice barbering without a current certificate of registration as a registered barber, issued pursuant to provisions of this chapter by the board of barber examiners.

(b) No person shall serve, offer to serve, or attempt to serve as an apprentice under a registered barber without a current certificate of registration as a registered apprentice or temporary apprentice permit issued pursuant to provisions of this chapter by the board of barber examiners. The registered apprentice shall, prior to or immediately upon issuance of the apprentice's certificate of registration, and immediately after changing employment, advise the board of the name, address, and certificate number of the registered barber under whom the registered apprentice is working.

(c) No person shall operate a barber shop unless it is at all times under the direct supervision and management of a registered barber and the owner or operator of the barber shop possesses a current shop registration card, issued under this chapter by the board of barber examiners.

(d) No person shall serve, offer to serve, or attempt to serve as an instructor of barbering without a current certificate of registration as a registered instructor of barbering or a temporary permit as an instructor of barbering, as provided for the board by rule, issued under this chapter by the board of barber examiners.

(e) No person shall operate a barber school unless the owner or operator possesses a current certificate of registration as a barber school, issued under this chapter by the board of barber examiners.

**History:** (5846-1) 1927 c 316 s 1; 1929 c 270 s 1; 1986 c 444; 1991 c 282 s 1

**154.02 WHAT CONSTITUTES BARBERING.**

Any one or any combination of the following practices when done upon the head and neck for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment directly or indirectly or without payment for the public generally constitutes the practice of barbering within the meaning of this chapter: to shave, trim the beard, cut or bob the hair of any person of either sex for compensation or other reward received by the person performing such service or any other person; to give facial and scalp massage or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances; to singe, shampoo the hair, or apply hair tonics; or to apply cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.

**History:** (5846-2) 1927 c 316 s 2; 1929 c 270 s 2; 1935 c 229 s 1

**154.03 APPRENTICES MAY BE EMPLOYED.**

A registered apprentice may practice barbering only if the registered apprentice is, at all times, under the immediate personal supervision of a registered barber and is in compliance with this chapter and the rules of the board.

**History:** (5846-3) 1927 c 316 s 3; 1929 c 270 s 3; 1973 c 376 s 1; 1983 c 243 s 2; 1986 c 444; 1991 c 282 s 2

**154.04 PERSONS EXEMPT FROM REGISTRATION.**

The following persons are exempt from the provisions of this chapter while in the proper discharge of their professional duties:

(1) persons authorized by the law of this state to practice medicine, surgery, osteopathy, and chiropractic;

(2) commissioned medical or surgical officers of the United States armed services;

(3) registered nurses, licensed practical nurses, and nursing aides performing services under the direction and supervision of a registered nurse, provided, however, that no additional compensation shall be paid for such service and patients who are so attended shall not be charged for barbering;

(4) persons practicing beauty culture, provided, however, that persons practicing beauty culture shall not hold themselves out as barbers or, except in the case of manicurists, practice their occupation in a barber shop; and

(5) persons who perform barbering services for charitable purposes in nursing homes, shelters, missions, or other similar facilities, provided, however, that no direct or indirect compensation is received for the services, and that persons who receive barbering services are not charged for the services.

**History:** (5846-4) 1927 c 316 s 4; 1929 c 270 s 4; 1973 c 597 s 1; 1974 c 62 s 2; 1976 c 222 s 104; 1991 c 282 s 3; 1995 c 59 s 1

**154.05 WHO MAY RECEIVE CERTIFICATES OF REGISTRATION AS A REGISTERED BARBER.**

A person is qualified to receive a certificate of registration as a registered barber:

(1) who is qualified under the provisions of section 154.06;

(2) who has practiced as a registered apprentice for a period of 12 months under the immediate personal supervision of a registered barber; and

(3) who has passed an examination conducted by the board to determine fitness to practice barbering.

An applicant for a certificate of registration to practice as a registered barber who fails to pass the examination conducted by the board shall continue to practice as an apprentice for an additional two months before being again entitled to take the examination for a registered barber.

**History:** (5846-5) 1927 c 316 s 5; 1929 c 270 s 5; 1945 c 160 s 1; 1986 c 444; 1988 c 476 s 1; 1991 c 282 s 4

**154.06 WHO MAY RECEIVE CERTIFICATES OF REGISTRATION AS A REGISTERED APPRENTICE.**

A person is qualified to receive a certificate of registration as a registered apprentice:

(1) who has completed at least ten grades of an approved school;

(2) who has graduated from a barber school approved by the board; and

(3) who has passed an examination conducted by the board to determine fitness to practice as a registered apprentice.

An applicant for a certificate of registration to practice as an apprentice who fails to pass the examination conducted by the board is required to complete a further course of study of at least 500 hours, of not more than eight hours in any one working day, in a barber school approved by the board.

A certificate of registration of an apprentice shall be valid for four years from the date the certificate of registration is issued by the board and shall not be renewed. During such four-year period the certificate of registration shall remain in full force and effect only if the apprentice complies with all the provisions of this chapter, as amended, including the payment of an annual fee, and the rules of the board.

If any registered apprentice shall, during the term in which the certificate of registration is in effect, enter full time active duty in the armed forces of the United States of America, the expiration date of the certificate of registration shall be extended by a period of time equal to the period or periods of active duty.

**History:** (5846-6) 1927 c 316 s 6; 1929 c 270 s 6; 1935 c 229 s 2; 1945 c 160 s 2; Ex1967 c 31 s 1; 1969 c 916 s 1; 1985 c 248 s 70; 1986 c 444; 1991 c 282 s 5

#### 154.065 BARBER SCHOOLS AND COLLEGES.

Subdivision 1. [Repealed, 1991 c 282 s 23]

Subd. 2. **Qualifications.** A person is qualified to receive a certificate of registration as an instructor of barbering who:

(1) is a graduate from an approved high school, or its equivalent, as determined by examination by the department of children, families, and learning;

(2) has qualified for a teacher's or instructor's vocational certificate;

(3) has at least three years experience as a registered barber in this state, or its equivalent as determined by the board; and

(4) has passed an examination conducted by the board to determine fitness to instruct in barbering.

A certificate of registration under this section is provisional until a teacher's or instructor's vocational certificate has been issued by the department of children, families, and learning. A provisional certificate of registration is valid for 30 days and is not renewable.

Subd. 3. [Repealed, 1991 c 282 s 23]

Subd. 4. **Examinations.** Examinations under this section shall be held not to exceed twice a year at times and at a place or places to be determined by the board. In case of an emergency, there being no registered instructor of barbering available, a temporary certificate as an instructor of barbering, valid only until the results of the next examination are released, may be issued upon such terms and conditions as the board may prescribe.

Subd. 5. [Repealed, 1991 c 282 s 23]

Subd. 6. [Repealed, 1976 c 222 s 209]

Subd. 7. [Repealed, 1991 c 282 s 23]

Subd. 8. [Repealed, 1991 c 282 s 23]

**History:** 1945 c 159; 1967 c 692 s 1,2; 1985 c 248 s 70; 1986 c 444; 1989 c 62 s 1; 1991 c 282 s 6,7; 1Sp1995 c 3 art 16 s 13

#### 154.07 BARBER SCHOOLS; REQUIREMENTS.

Subdivision 1. **Admission requirements; course of instruction.** No barber school shall be approved by the board unless it requires, as a prerequisite to admission thereto, ten grades of an approved school or its equivalent, as determined by an examination conducted by the board of education, which shall issue a certificate that the student has passed the required examination, and unless it requires, as a prerequisite to graduation, a course of instruction of at least 1,500 hours, of not more than eight hours in any one working day; such course of instruction to include the following subjects: scientific fundamentals for barbering, hygiene, practical study of the hair, skin, muscles, and nerves, structure of the head, face, and neck, elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands, massaging and manipulating the muscles of the face and neck, haircutting, shaving, and trimming the beard; bleaching, tinting and dyeing the hair, and the chemical straightening of hair.

Subd. 2. [Repealed, 1991 c 282 s 23]

Subd. 3. **Costs.** It shall be permissible for barber schools to make a reasonable charge for materials used and services rendered by students for work done in such schools by students.

Subd. 3a. **Number of instructors.** There shall be one registered instructor of barbering for every 17 students or minor fraction in excess of 17. No instruction shall be performed by persons not possessing a certificate of registration as an instructor of barbering or a temporary permit as an instructor of barbering.

Subd. 4. **Building requirements.** Each barber school shall be conducted and operated in one building, or in connecting buildings, and no barber school shall have any department or branch in a building completely separated or removed from the remainder of the barber school.

Subd. 5. **Owner's requirements.** Any person may own and operate a barber school if the person has had six years' continuous experience as a barber, provided the person first secures from the board an annual certificate of registration as a barber school, keeps it prominently displayed, and before commencing business:

(1) files with the secretary of state a bond to the state approved by the attorney general in the sum of \$25,000, conditioned upon the faithful compliance of the barber school with all the provisions herein, and to pay all judgments that may be obtained against the school, or the owners thereof, on account of fraud, misrepresentation, or deceit practiced by them or their agents; and

(2) keeps prominently displayed on the exterior a substantial sign indicating that the establishment is a barber school.

Subd. 5a. **Student permits.** All barber schools upon receiving students shall immediately apply to the board for student permits upon forms for that purpose furnished by the board.

Subd. 5b. **Designated operator.** When a person who owns a barber school does not meet the requirements of this section to operate a barber school, the owner shall notify the board in writing and under oath of the identity of the person designated to operate the barber school and shall notify the board of any change of operator by telephone within 24 hours of such change, exclusive of Saturdays, Sundays, and legal holidays, and shall notify the board in writing and under oath within 72 hours of such change.

Subd. 6. **Operation by technical college or state institution.** A public technical college or a state institution may operate a barber school provided it has in its employment a qualified instructor holding a current certificate of registration as a barber instructor and provided that it secures from the board of barber examiners an annual certificate of registration and does so in accordance with this chapter and the rules of the board for barber schools but without the requirement to file a performance bond with the secretary of state.

**History:** (5846-7) 1927 c 316 s 7; 1929 c 270 s 7; 1935 c 229 s 3; 1945 c 160 s 3; Ex1967 c 31 s 2; 1969 c 567 s 3; 1971 c 150 s 1; 1973 c 254 s 3; 1977 c 430 s 25 subd 1; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 75; 1987 c 258 s 12; 1988 c 476 s 2; 1989 c 246 s 2; 1991 c 282 s 8-12

#### 154.08 APPLICATION; FEE.

Each applicant for an examination shall:

(1) Make application to the board of barber examiners on blank forms prepared and furnished by it, such application to contain proof under the applicant's oath of the particular qualifications of the applicant;

(2) Furnish to the board two five inch x three inch signed photographs of the applicant, one to accompany the application and one to be returned to the applicant, to be presented to the board when the applicant appears for examination;

(3) Pay to the board the required fee.

**History:** (5846-8) 1927 c 316 s 8; 1929 c 270 s 8

154.085 [Repealed, 1991 c 282 s 23]

#### 154.09 EXAMINATIONS, CONDUCT AND SCOPE.

The board shall conduct examinations of applicants for certificates of registration to practice as barbers and apprentices not more than six times each year, at such time and place

as the board may determine. An affidavit shall be filed with the board by the proprietor of a barber school that students applying to take the apprentice examination have completed 1,500 hours in a barber school registered with the board.

The examination of applicants for certificates of registration as barbers and apprentices shall include both a practical demonstration and a written and oral test and embrace the subjects usually taught in barber schools registered with the board.

**History:** (5846-9) 1927 c 316 s 9; 1929 c 270 s 9; 1935 c 229 s 4; 1945 c 160 s 4; 1969 c 916 s 2; 1988 c 476 s 3; 1991 c 282 s 13

#### **154.10 APPLICATION; CERTIFICATES OF REGISTRATION; FEES.**

**Subdivision 1. Application.** Each applicant for an initial certificate of registration shall make application to the board on forms prepared and furnished by the board with proof under oath of the particular qualifications of each applicant. This application shall be accompanied by a fee prescribed by law or the rules of the board to defray the expenses of making investigation and for the examination of such applicant.

**Subd. 2. Certificates of registration; fees.** When the provisions of this chapter have been complied with, the board shall issue a certificate of registration as a registered barber, as a registered apprentice, as a registered instructor of barbering, or as a registered barber school, a temporary apprentice permit, a temporary permit as an instructor of barbering, or a shop registration card upon payment of the required fee. Certificates of registration, temporary permits, and shop registration cards are not transferable.

**History:** (5846-10) 1927 c 316 s 10; 1929 c 270 s 10; 1947 c 35 s 1; 1991 c 282 s 14

#### **154.11 EXAMINATION OF NONRESIDENT BARBERS AND INSTRUCTORS OF BARBERING; TEMPORARY APPRENTICE PERMITS.**

**Subdivision 1. Examination of nonresidents.** A person who meets all of the requirements for licensure in this chapter and either has a license, certificate of registration, or an equivalent as a practicing barber or instructor of barbering from another state or country which in the discretion of the board has substantially the same requirements for licensing or registering barbers and instructors of barbering as required by this chapter or can prove by sworn affidavits practice as a barber or instructor of barbering in another state or country for at least five years immediately prior to making application in this state, shall, upon payment of the required fee, be issued a certificate of registration without examination, provided that the other state or country grants the same privileges to holders of Minnesota certificates of registration.

**Subd. 2. Temporary apprentice permits for nonresidents.** Any person who qualifies for examination as a registered barber under this section may apply for a temporary apprentice permit which is effective no longer than six months. All persons holding a temporary apprentice permit are subject to all provisions of this chapter and the rules adopted by the board under it concerning the conduct and obligations of registered apprentices.

**History:** (5846-11) 1927 c 316 s 11; 1929 c 270 s 11; 1935 c 229 s 5; 1986 c 444; 1991 c 282 s 15; 1994 c 632 art 4 s 54

#### **154.12 EXAMINATION OF NONRESIDENT APPRENTICES.**

A person who meets all of the requirements for licensure in this chapter who has a license, a certificate of registration, or their equivalent as an apprentice in a state or country which in the discretion of the board has substantially the same requirements for registration as an apprentice as is provided by this chapter shall, upon payment of the required fee, be issued a certificate of registration without examination, provided that the other state or country grants the same privileges to holders of Minnesota certificates of registration.

**History:** (5846-12) 1927 c 316 s 12; 1929 c 270 s 12; 1935 c 229 s 6; 1986 c 444; 1991 c 282 s 16; 1994 c 632 art 4 s 55

#### **154.13 [Repealed, 1991 c 282 s 23]**

**154.14 CERTIFICATES OF REGISTRATION AND TEMPORARY PERMITS TO BE DISPLAYED.**

Every holder of a certificate of registration as a registered barber or registered apprentice or temporary apprentice permit shall display it in a conspicuous place adjacent to or near the chair where work is performed. Every holder of a certificate of registration as an instructor of barbering or as a barber school, of a temporary permit as an instructor of barbering, and of a shop registration card shall display it in a conspicuous place accessible to the public.

**History:** (5846-14) 1927 c 316 s 14; 1929 c 270 s 14; 1986 c 444; 1991 c 282 s 17

**154.15 CERTIFICATES OF REGISTRATION MUST BE RENEWED ANNUALLY.**

**Subdivision 1. Annual renewal required.** All registered barbers, registered apprentices, and registered instructors of barbering who continue in active practice or service shall, on or before December 31 each year, renew their certificates of registration for the following year and pay the required fee. Every certificate of registration which has not been renewed during the month of December in any year shall expire on the 31st day of December in that year. All shop registration cards shall be renewed on or before June 30 of each year upon payment of the required fee. All certificates of registration as a barber school shall be renewed on or before December 31 of each year upon payment of the required fee.

**Subd. 2. Effect of failure to renew.** A registered barber or a registered apprentice who has not renewed a certificate of registration may be reinstated within one year of such failure to renew without examination upon the payment of the required restoration fee. A registered instructor of barbering who has not renewed a certificate of registration may be reinstated within three years of such failure to renew without examination upon payment of the required restoration fee. All registered barbers and registered apprentices who allow their certificates of registration to lapse for more than one year shall be required to reexamine before being issued a certificate of registration. All registered instructors of barbering who allow their certificates of registration to lapse for more than three years shall be required to reexamine before being issued a certificate of registration.

**History:** (5846-15) 1927 c 316 s 15; 1929 c 270 s 15; 1935 c 229 s 7; 1986 c 444; 1991 c 282 s 18

**154.16** [Repealed, 1994 c 632 art 4 s 84]

**154.161 REGISTRATION; ISSUANCE, REVOCATION, SUSPENSION, DENIAL.**

**Subdivision 1. Proceedings.** If the board, or a complaint committee if authorized by the board, has a reasonable basis for believing that a person has engaged in or is about to engage in a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board or complaint committee may proceed as provided in subdivision 2 or 3. Except as otherwise provided in this section, all hearings must be conducted in accordance with the administrative procedure act.

**Subd. 2. Legal actions.** (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board, or a complaint committee if authorized by the board, may bring an action in the name of the state in the district court of Ramsey county in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. On a showing that a person has engaged in or is about to engage in an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the court shall grant a permanent or temporary injunction, restraining order, or other appropriate relief.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in or is about to engage in an act or practice that constitutes violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority, or from action by the board under subdivision 3, 4, 5, or 6 with respect to the person's license, certificate, or application for examination, license, or renewal.

**Subd. 3. Cease and desist orders.** (a) The board, or complaint committee if authorized by the board, may issue and have served upon an unlicensed person, or a holder of a certificate of registration or a shop registration card, an order requiring the person to cease and desist from an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must (1) give reasonable notice of the rights of the person named in the order to request a hearing, and (2) state the reasons for the entry of the order. No order may be issued under this subdivision until an investigation of the facts has been conducted under section 214.10.

(b) Service of the order under this subdivision is effective when the order is personally served on the person or counsel of record, or served by certified mail to the most recent address provided to the board for the person or counsel of record.

(c) The board must hold a hearing under this subdivision not later than 30 days after the board receives the request for the hearing, unless otherwise agreed between the board, or complaint committee if authorized by the board, and the person requesting the hearing.

(d) Notwithstanding any rule to the contrary, the administrative law judge must issue a report within 30 days of the close of the contested case hearing. Within 30 days after receiving the report and subsequent exceptions and argument, the board shall issue a further order vacating, modifying, or making permanent the cease and desist order. If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until modified or vacated by the board.

**Subd. 4. License actions.** (a) With respect to a person who is a holder of or applicant for a licensee or shop registration card under this chapter, the board may by order deny, refuse to renew, suspend, temporarily suspend, or revoke the application, certificate of registration, or shop registration card, censure or reprimand the person, refuse to permit the person to sit for examination, or refuse to release the person's examination grades, if the board finds that such an order is in the public interest and that, based on a preponderance of the evidence presented, the person has:

(1) violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce;

(2) engaged in conduct or acts that are fraudulent, deceptive, or dishonest, whether or not the conduct or acts relate to the practice of barbering, if the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of barbering;

(3) engaged in conduct or acts that constitute malpractice, are negligent, demonstrate incompetence, or are otherwise in violation of the standards in the rules of the board, where the conduct or acts relate to the practice of barbering;

(4) employed fraud or deception in obtaining a certificate of registration, shop registration card, renewal, or reinstatement, or in passing all or a portion of the examination;

(5) had a certificate of registration or shop registration card, right to examine, or other similar authority revoked in another jurisdiction;

(6) failed to meet any requirement for issuance or renewal of the person's certificate of registration or shop registration card;

(7) practiced as a barber while having an infectious or contagious disease;

(8) advertised by means of false or deceptive statements;

(9) demonstrated intoxication or indulgence in the use of drugs, including but not limited to narcotics as defined in section 152.01 or in United States Code, title 26, section 4731, barbiturates, amphetamines, benzedrine, dexedrine, or other sedatives, depressants, stimulants, or tranquilizers;

(10) demonstrated unprofessional conduct or practice, or conduct or practice that violates any provision of chapter 186;

(11) permitted an employee or other person under the person's supervision or control to practice as a registered barber, registered apprentice, or registered instructor of barbering unless that person has (i) a current certificate of registration as a registered barber, registered apprentice, or registered instructor of barbering, (ii) a temporary apprentice permit, or (iii) a temporary permit as an instructor of barbering;

- (12) practices, offered to practice, or attempted to practice by misrepresentation;
- (13) failed to display a certificate of registration as required by section 154.14;
- (14) used any room or place of barbering that is also used for any other purpose, or used any room or place of barbering that violates the board's rules governing sanitation;
- (15) in the case of a barber, apprentice, or other person working in or in charge of any barber shop, or any person in a barber school engaging in the practice of barbering, failed to use separate and clean towels for each customer or patron, or to discard and launder each towel after being used once;

(16) in the case of a barber or other person in charge of any barber shop or barber school, (i) failed to supply in a sanitary manner clean hot and cold water in quantities necessary to conduct the shop or barbering service for the school, (ii) failed to have water and sewer connections from the shop or barber school with municipal water and sewer systems where they are available for use, or (iii) failed or refused to maintain a receptacle for hot water of a capacity of at least five gallons;

(17) refused to permit the board to make an inspection permitted or required by this chapter, or failed to provide the board or the attorney general on behalf of the board with any documents or records they request;

(18) failed promptly to renew a certificate of registration or shop registration card when remaining in practice, pay the required fee, or issue a worthless check;

(19) failed to supervise a registered apprentice or temporary apprentice, or permitted the practice of barbering by a person not registered with the board or not holding a temporary permit;

(20) refused to serve a customer because of race, color, creed, religion, disability, national origin, or sex;

(21) failed to comply with a provision of chapter 141 or a provision of another chapter that relates to barber schools; or

(22) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that the board, or complaint committee if authorized by the board, has determined may result or may have resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy under paragraph (a), the board may as a condition of continued registration, termination of suspension, reinstatement of registration, examination, or release of examination results, require that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in a manner and by a person or entity that the board determines; or

(2) complete to the board's satisfaction continuing education as the board requires.

(c) Service of an order under this subdivision is effective if the order is served personally on, or is served by certified mail to the most recent address provided to the board by, the licensee, certificate holder, applicant, or counsel of record. The order must state the reason for the entry of the order.

(d) Except as provided in subdivision 5, paragraph (c), all hearings under this subdivision must be conducted in accordance with the administrative procedure act.

**Subd. 5. Temporary suspension.** (a) When the board, or complaint committee if authorized by the board, issues a temporary suspension order, the suspension provided for in the order is effective on service of a written copy of the order on the licensee, certificate holder, or counsel of record. The order must specify the statute, rule, or order violated by the licensee or certificate holder. The order remains in effect until the board issues a final order in the matter after a hearing, or on agreement between the board and the licensee or certificate holder.

(b) An order under this subdivision may (1) prohibit the licensee or certificate holder from engaging in the practice of barbering in whole or in part, as the facts require, and (2) condition the termination of the suspension on compliance with a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must state the reasons for entering the order and must set forth the right to a hearing as provided in this subdivision.

(c) Within ten days after service of an order under this subdivision the licensee or certificate holder may request a hearing in writing. The board must hold a hearing before its own

members within five working days of the request for a hearing. The sole issue at such a hearing must be whether there is a reasonable basis to continue, modify, or terminate the temporary suspension. The hearing is not subject to the administrative procedure act. Evidence presented to the board or the licensee or certificate holder may be in affidavit form only. The licensee, certificate holder, or counsel of record may appear for oral argument.

(d) Within five working days after the hearing, the board shall issue its order and, if the order continues the suspension, shall schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding any rule to the contrary, the administrative law judge shall issue a report within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving the report.

**Subd. 6. Violations; penalties; costs.** (a) The board may impose a civil penalty of up to \$2,000 per violation on a person who violates a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(b) In addition to any penalty under paragraph (a), the board may impose a fee to reimburse the board for all or part of the cost of (1) the proceedings resulting in disciplinary action authorized under this section, (2) the imposition of a civil penalty under paragraph (a), or (3) the issuance of a cease and desist order. The board may impose a fee under this paragraph when the board shows that the position of the person who has violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce is not substantially justified unless special circumstances make such a fee unjust, notwithstanding any rule to the contrary. Costs under this paragraph include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorneys' fees, court reporter costs, witness costs, reproduction of records, board members' compensation, board staff time, and expense incurred by board members and staff.

(c) All hearings under this subdivision must be conducted in accordance with the administrative procedure act.

**Subd. 7. Reinstatement.** The board may reinstate a suspended, revoked, or surrendered certificate of registration or shop registration card, on petition of the former or suspended registrant. The board may in its sole discretion place any conditions on reinstatement of a suspended, revoked, or surrendered certificate of registration or shop registration card that it finds appropriate and necessary to ensure that the purposes of this chapter are met. No certificate of registration or shop registration card may be reinstated until the former registrant has completed at least one-half of the suspension period.

**History:** 1994 c 632 art 4 s 56; 1995 c 186 s 45

**154.165** [Repealed, 1994 c 632 art 4 s 84]

**154.17** [Repealed, 1991 c 282 s 23]

### **154.18 FEES.**

The fees collected, as required in this chapter, chapter 214, and the rules of the board, shall be paid in advance to the executive secretary of the board. The executive secretary shall deposit the fees in the state treasury, to be disbursed by the executive secretary on the order of the chair in payment of expenses lawfully incurred by the board.

**History:** (5846-18) 1927 c 316 s 18; 1929 c 270 s 18; 1947 c 373 s 1; 1967 c 593 s 3; 1967 c 692 s 3; 1973 c 376 s 3; 1986 c 444; 1988 c 476 s 4; 1991 c 282 s 21

### **154.19 VIOLATIONS.**

Each of the following constitutes a misdemeanor:

- (1) The violation of any of the provisions of section 154.01;
- (2) Permitting any person in one's employ, supervision, or control to practice as a registered barber or registered apprentice unless that person has a certificate of registration as a registered barber or registered apprentice;
- (3) Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation;
- (4) Practicing or attempting to practice by fraudulent misrepresentation;

(5) The willful failure to display a certificate of registration as required by section 154.14;

(6) The use of any room or place for barbering which is also used for residential or business purposes, except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, candies in original package, and such commodities as are used and sold in barber shops, and except that shoe-shining and an agency for the reception and delivery of laundry, or either, may be conducted in a barber shop without the same being construed as a violation of this section, unless a substantial partition of ceiling height separates the portion used for residential or business purposes, and where a barber shop is situated in a residence, pool-room, confectionery, store, restaurant, garage, clothing store, liquor store, hardware store, or soft drink parlor, there must be an outside entrance leading into the barber shop independent of any entrance leading into such business establishment, except that this provision as to an outside entrance shall not apply to barber shops in operation at the time of the passage of this chapter and except that a barber shop and beauty parlor may be operated in conjunction, without the same being separated by partition of ceiling height;

(7) The failure or refusal of any barber or other person in charge of any barber shop, or any person in barber schools or colleges doing barber service work, to use separate and clean towels for each customer or patron, or to discard and launder each towel after once being used;

(8) The failure or refusal by any barber or other person in charge of any barber shop or barber school or barber college to supply clean hot and cold water in such quantities as may be necessary to conduct such shop, or the barbering service of such school or college, in a sanitary manner, or the failure or refusal of any such person to have water and sewer connections from such shop, or barber school or college, with municipal water and sewer systems where the latter are available for use, or the failure or refusal of any such person to maintain a receptacle for hot water of a capacity of not less than five gallons;

(9) For the purposes of this chapter, barbers, students, apprentices, or the proprietor or manager of a barber shop, or barber school or barber college, shall be responsible for all violations of the sanitary provisions of this chapter, and if any barber shop, or barber school or barber college, upon inspection, shall be found to be in an unsanitary condition, the person making such inspection shall immediately issue an order to place the barber shop, or barber school, or barber college, in a sanitary condition, in a manner and within a time satisfactory to the board of barber examiners, and for the failure to comply with such order the board shall immediately file a complaint for the arrest of the persons upon whom the order was issued, and any licensed barber who shall fail to comply with the rules adopted by the board of barber examiners, with the approval of the state commissioner of health, or the violation or commission of any of the offenses described in section 154.16, clauses (1), (2), (3), (4), (5), (6), (7), (8), (9), and of clauses (1), (2), (3), (4), (5), (6), (7), (8), and (9) of this section, shall be fined not less than \$10 or imprisoned for ten days and not more than \$100 or imprisoned for 90 days.

**History:** (5846-19) 1927 c 316 s 19; 1929 c 270 s 19; 1929 c 386 s 1; 1935 c 229 s 9; 1945 c 160 s 5; 1977 c 305 s 45; 1985 c 248 s 70

#### 154.20 RECEPTACLES FOR TOWELS.

In each barber shop there shall be provided a receptacle or receptacles for soiled towels. Each barber shall, immediately after the completion of the service to the customer, place the towels used on the customer in the receptacles and no towel shall be withdrawn from the receptacle and used on any customer until the towel has been laundered. A violation of any provision of this section shall be a misdemeanor.

**History:** (5846-19 1/2) 1929 c 270 s 20

#### 154.21 PERJURY.

The willful making of any false statement as to a material matter in any oath or affidavit which is required by the provisions of this chapter is perjury and punishable as such.

**History:** (5846-20) 1927 c 316 s 20; 1929 c 270 s 21

**154.22 BOARD OF BARBER EXAMINERS CREATED; TERMS.**

A board of barber examiners is established to consist of four members appointed by the governor. Three of such members shall be persons who have practiced as a registered barber in this state for at least five years immediately prior to their appointment; shall be graduates from the 12th grade of a high school or have equivalent education, and shall have knowledge of the matters to be taught in registered barber schools, as set forth in section 154.07. The remaining member of the board shall be a public member as defined by section 214.02. One of the members shall be a member of, or recommended by, a union of journeymen barbers which shall have existed at least two years, and one shall be a member of, or recommended by, a professional organization of barbers.

Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

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

**History:** (5846-21) 1927 c 316 s 21; 1929 c 270 s 22; 1973 c 376 s 4; 1973 c 638 s 34; 1975 c 136 s 38; 1976 c 222 s 105; 1976 c 239 s 60; 1991 c 199 art 1 s 47; 1991 c 282 s 22

**154.23 OFFICERS; COMPENSATION; FEES; EXPENSES.**

The board of barber examiners shall annually elect a chair and secretary. It shall adopt and use a common seal for the authentication of its orders and records. The board shall appoint an executive secretary who shall not be a member of the board and who shall be in the unclassified civil service.

The executive secretary shall keep a record of all proceedings of the board. The expenses of administering sections 154.01 to 154.26 shall be paid from the appropriations made to the board of barber examiners.

Each member of the board shall take the oath provided by law for public officers.

A majority of the board, in meeting assembled, may perform and exercise all the duties and powers devolving upon the board.

The members of the board shall receive compensation for each day spent on board activities, but not to exceed 20 days in any calendar month nor 100 days in any calendar year.

The board shall have authority to employ such inspectors, clerks, deputies, and other assistants as it may deem necessary to carry out the provisions of this chapter.

**History:** (5846-22) 1927 c 316 s 22; 1929 c 270 s 23; 1947 c 36 s 1; 1949 c 31 s 1; 1951 c 83 s 1; 1955 c 847 s 17; 1963 c 757 s 1; 1967 c 692 s 4; 1973 c 638 s 35; 1975 c 136 s 39; 1976 c 222 s 106; 1986 c 444

**154.24 RULES.**

The board of barber examiners shall have authority to make reasonable rules for the administration of the provisions of this chapter and prescribe sanitary requirements for barber shops and barber schools, subject to the approval of the state commissioner of health. Any member of the board, or its agents or assistants, shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules adopted by the board shall be furnished by it to the owner or manager of each barber shop or barber school and such copy shall be posted in a conspicuous place in such barber shop or barber school.

The board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of certificates of registration. This record shall contain the name, place of business and residence of each registered barber and registered apprentice, and the date and number of the certificate of registration. This record shall be open to public inspection at all reasonable times.

**History:** (5846-23) 1927 c 316 s 23; 1929 c 270 s 24; 1977 c 305 s 45; 1985 c 248 s 70; 1986 c 444

**154.25 NOT TO SERVE CERTAIN PERSONS.**

No person practicing the occupation of a barber in any barber shop, barber school, or college in this state shall knowingly serve a person afflicted, in a dangerous or infectious state of the disease, with erysipelas, eczema, impetigo, sycosis, tuberculosis, or any other contagious or infectious disease. Any person so afflicted is hereby prohibited from being served in any barber shop, barber school, or college in this state. Any violation of this section shall be considered a misdemeanor as provided for in this chapter.

**History:** (5846-24) 1927 c 316 s 24; 1929 c 270 s 25

**154.26 MUNICIPALITIES MAY REGULATE HOURS.**

The governing body of any city of this state may regulate by ordinance the opening and closing hours of barber shops within its municipal limits.

**History:** (5846-26 1/2) 1935 c 229 s 10; 1973 c 123 art 5 s 7