

TESTIMONY

ADMINISTRATIVE RULES COMMITTEE

WEDNESDAY, DECEMBER 15, 2010

NORTH DAKOTA BOARD OF BARBER EXAMINERS

Good morning, Chairman Klein and members of the Administrative Rules Committee. My name is Tona Stevenson, and I am president of the Board of Barber Examiners. I am here to provide testimony concerning the rules that the Board is seeking to adopt.

I would now like to address the ten questions raised by Committee counsel.

1. These rules did not result from statutory changes made by the Legislative Assembly.
2. These rules are not related to any federal statute or regulation.
3. The Board followed the rule making procedure mandated by the Administrative Agencies Practice Act when adopting these rules. Notice was provided to the public in the official newspaper of each county, and an administrative hearing was held to accept any comments. Further, in addition to legal requirements, the Board also reviewed these proposed changes with North Dakota's State Barber's Association.
4. No one presented any comments or concerns about these administrative rules during the rule making process. The Board held an administrative hearing which no one attended, and the Board was open to receive any written or oral comments that might be provided during the comment period.

5. The approximate cost of giving public notice and holding the hearing on the rules is \$ 1619.60 and the approximately cost, not including staff time, of developing and adopting the rules is \$700.00.
6. The reasons for making the amendments are to remove outdated references and to remove unnecessary references to statutory requirements. The specific changes are as follows:
 - 14-01-01-01. The changes made to this rule are to update the means of contacting the board. It was felt that we do not need to list all of the Board members because that information is available on the state's website.
 - 14-02-01-04. This change clarifies the rule that barbershops located in a residence must be separate from rooms used for other purposes.
 - Chapter 14-02-02. The changes made to this chapter address the fact that water supply and plumbing are now regulated by the State Department of Health and the State Plumbing Board. There is no longer any reason for the State Board of Barber Examiners to separately regulate these areas.
 - Chapter 14-02-03. This chapter is being repealed because issues relating to sewage disposal, cesspools or septic tanks are regulated by the State Department of Health, and it is not necessary for this Board to regulate this field. Further, section 14-02-03-03 addresses the requirement for baths and toilets to be clean and sanitary. This is addressed elsewhere by requirements for cleanliness and sanitary conditions.

- 14-02-04-05. This rule was rewritten to continue to require hairbrushes and combs to be cleaned and sterilized after each customer use, but we removed references to the specific means of achieving sterilization.
- 14-02-04-06. The Board felt that cuspidors are no longer in use and that this antiquated reference should be repealed.
- 14-02-04-07. This rule was rewritten to continue to require barbers to sterilize all tools and instruments used to provide barber services, but we removed references to the specific means of achieving sterilization.
- 14-02-04-08. The Board modified this provision to address methods of dip sterilization and use of a dry sterilizer.
- 14-02-04-09. This rule was rewritten to update the language, and to remove duplicative language requiring tools to be sterilized.
- 14-02-04-10. While the Board wishes to repeal provisions related to the State Plumbing Code or public water supplies, the Board felt it was useful to include a rule addressing the number of sinks necessary for a barbershop.
- 14-02-05-02. This rule is rewritten in order to make it clear that a person with various communicable diseases may not practice barbering in any setting.
- 14-02-05-05. This rule is rewritten to remove the specific requirement for barbers to wear an outer linen apron or coat, and to replace it with a reference to suitable clothing. The Board does not wish to unnecessarily restrict a barber's attire as long as the barber's clothing is suitable for the tasks being performed and maintaining cleanliness and sanitation.

- 14-03-01-01. The Board removed references to honing or stropping from the requirements for the barbering examination. This skill is no longer considered necessary in order to practice barbering as a profession.
- 14-04-01-01. This rule was amended to remove the reference to the specific dollar amount of the inspection fee for a shop license because that amount is set in statute.
- 14-04-02-01. This rule was reworded to simplify the language concerning a barber's duty to post a copy of the administrative rules in a conspicuous place in the barbershop, school or college.
- 14-04-03-01. The Board felt that the section prohibited providing barbering services on Sunday should be repealed because the Sunday closing laws are established by the State Legislature, and that there was no reason to restrict the profession of barbering any more than the Legislature itself has established through generally applicable state law.
- 14-04-04-01. This rule is being amended to address the equipment required to be maintained by every barber school or college. The types of equipment being repealed are outdated, and are no longer necessary for use in the barbering profession.
- 14-04-04-02. This section is being amended to replace references to "films and slides" maintained by a barbering school or college with the term "video." It is felt that the wording was antiquated and no longer keeping up with modern technology.

- 14-04-04-03. This rule addresses qualifications for instructors of barbering. Unnecessary language was removed; the requirement was set that the instructor shall have a master barber's license; and specific references to fees were removed because those fees are established by statute.

As you see, the main purposes in amending these rules were to update outdated references and repeal regulations that were duplicated elsewhere.

7. A regulatory analysis was not required under N.D.C.C. § 28-32-08 because these rules are not expected to have an impact on the regulated community of \$50,000 or greater.
8. A regulatory analysis or economic impact statement concerning small entities is not required by N.D.C.C. § 28-32-08.1 because the Board is a professional or occupational regulatory board.
9. A constitutional takings assessment was not prepared pursuant to N.D.C.C. § 28-32-09 because these rules do not affect the use of real property.
10. These rules are not adopted as emergency rules under N.D.C.C. § 28-32-03.

I would be happy to answer any questions that you might have at this time. Also, our legal counsel from the Office of Attorney General is available to answer any technical questions you might have. The Board would like your favorable consideration on these rules, and I thank you for your time and attention to this matter.