As Passed by the House

133rd General Assembly
Regular Session
2019-2020

Am. Sub. H. B. No. 673
Representative Roemer
Cosponsors: Representatives Wiggam, Crossman, Galonski, Hambley, Rogers, Seitz

A BILL

To amend sections 4709.02, 4709.05, 4709.12, 4709.13, and 4729.41 and to enact sections 4709.071, 4713.351, and 4729.42 of the Revised Code and to amend Section 30 of H.B. 197 of the 133rd General Assembly regarding the operation of businesses, practice of certain professions, and completion of education as it relates to COVID-19.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4709.02, 4709.05, 4709.12, 4709.13, and 4729.41 be amended and sections 4709.071, 4713.351, and 4729.42 of the Revised Code be enacted to read as follows:

Sec. 4709.02. Except as provided in this chapter, no person shall do any of the following:

(A) Engage in or attempt to engage in the practice of barbering, hold themselves out as a practicing barber, or advertise in a manner that indicates they are a barber, without a barber license or a temporary pre-examination work permit issued pursuant to this chapter;
(B) Operate or attempt to operate a barber shop without a barber shop license issued pursuant to this chapter;

(C) Engage in or attempt to engage in the teaching of or assist in the teaching of the practice of barbering without a barber teacher or assistant barber teacher license issued pursuant to this chapter;

(D) Advertise barbering services unless the establishment and personnel employed therein are licensed or hold a permit pursuant to this chapter;

(E) Use or display a barber pole for the purpose of offering barber services to the consuming public without a barber shop license issued pursuant to this chapter;

(F) Operate or attempt to operate a barber school without a barber school license issued pursuant to this chapter;

(G) Teach or attempt to teach any phase of barbering for pay, free, or otherwise without approval from the state cosmetology and barber board;

(H) Being a barber, knowingly continue the practice of barbering, or being a student, knowingly continue as a student in any barber school, while such person has an infectious, contagious, or communicable disease;

(I) Obtain or attempt to obtain a license or permit by fraudulent misrepresentation for money, other than the required fee, or any other thing of value;

(J) Practice or attempt to practice barbering by fraudulent misrepresentation;

(K) Employ, perform, or employ another person to perform or himself perform the practice of barbering in a licensed barber
shop unless that person is licensed as a barber holds a license or permit to practice barbering under this chapter;

(L) Use any room or place for barbering which is also used for residential or other business purposes, unless it is separated by a substantial ceiling high partition. This does not exclude hair care products used and sold in barber shops or the sale of clothing and related accessories as authorized by division (F) of section 4709.09 of the Revised Code.

(M) Violate any rule adopted by the board or department of health for barber shops or barber schools.

Sec. 4709.05. In addition to any other duty imposed on the state cosmetology and barber board under this chapter or Chapter 4713. of the Revised Code, the board shall do all of the following:

(A) Hold regular meetings, at the times and places as it determines for the purpose of conducting the examinations required under this chapter, and hold additional meetings for the transaction of necessary business;

(B) Maintain a record of its proceedings and a register of persons licensed as barbers. The register shall include each licensee's name, place of business, residence, and licensure date and number, and a record of all licenses issued, refused, renewed, suspended, or revoked. The records are open to public inspection at all reasonable times.

(C) Ensure that the practice of barbering is conducted only in a licensed barber shop, except when the practice of barbering is performed on a person whose physical or mental disability prevents that person from going to a licensed barber shop;
(D) Conduct or have conducted the examination for applicants to practice as licensed barbers at least four times per year at the times and places the board determines;

(E) Adopt rules, in accordance with Chapter 119. of the Revised Code, to administer and enforce this chapter and which cover all of the following:

(1) Sanitary standards for the operation of barber shops and barber schools that conform to guidelines established by the department of health;

(2) The content of the examination required of an applicant for a barber license. The examination shall include a practical demonstration and a written test, shall relate only to the practice of barbering, and shall require the applicant to demonstrate that the applicant has a thorough knowledge of and competence in the proper techniques in the safe use of chemicals used in the practice of barbering.

(3) Continuing education requirements for persons licensed pursuant to this chapter. The board may impose continuing education requirements upon a licensee for a violation of this chapter or the rules adopted pursuant thereto or if the board determines that the requirements are necessary to preserve the health, safety, or welfare of the public.

(4) Requirements for the licensure of barber schools, barber teachers, and assistant barber teachers;

(5) Requirements for students of barber schools;

(6) Any other area the board determines appropriate to administer or enforce this chapter;

(7) Conditions an individual must satisfy to qualify for a
temporary pre-examination work permit under section 4709.071 of
the Revised Code and the conditions and method of renewing a
temporary pre-examination work permit under that section. The
board may establish additional conditions for a temporary pre-
examination work permit under section 4709.071 of the Revised
Code that is applicable to individuals who are licensed to
practice barbering in another state or country.

(F) Prior to adopting any rule under this chapter,
indicate at a formal hearing the reasons why the rule is
necessary as a protection of the persons who use barber services
or as an improvement of the professional standing of barbers in
this state;

(G) Furnish each owner or manager of a barber shop and
barber school with a copy of all sanitary rules adopted pursuant
to division (E) of this section;

(H) Conduct such investigations and inspections of persons
and establishments licensed or unlicensed pursuant to this
chapter and for that purpose, any member of the board or any of
its authorized agents may enter and inspect any place of
business of a licensee or a person suspected of violating this
chapter or the rules adopted pursuant thereto, during normal
business hours;

(I) Upon the written request of an applicant and the
payment of the appropriate fee, provide to the applicant
licensure information concerning the applicant;

(J) Do all things necessary for the proper administration
and enforcement of this chapter.

Sec. 4709.071. (A) The state cosmetology and barber board
shall issue a temporary pre-examination work permit to practice
barbering to an individual who applies for and is eligible to take an examination conducted under section 4709.07 of the Revised Code, if the individual satisfies all of the following conditions:

(1) The individual has not previously failed an examination conducted under section 4709.07 of the Revised Code.

(2) The individual pays to the board the applicable fee.

(3) The individual satisfies all other conditions established by rules adopted under section 4709.05 of the Revised Code.

(B) An individual issued a temporary pre-examination work permit under this section may practice until the date the individual is scheduled to take an examination under section 4709.07 of the Revised Code. The individual shall practice under the supervision of an individual holding a current, valid barber license.

(C) A temporary pre-examination work permit is renewable in accordance with rules adopted under section 4709.05 of the Revised Code.

Sec. 4709.12. (A) The state cosmetology and barber board shall charge and collect the following fees:

(1) For the application to take the barber examination, ninety dollars;

(2) For an application to retake any part of the barber examination, forty-five dollars;

(3) For the initial issuance of a license to practice as a barber, thirty dollars;
(4) For the biennial renewal of the license to practice as a barber, one hundred ten dollars;

(5) For the restoration of an expired barber license, one hundred dollars, and seventy-five dollars for each lapsed year, provided that the total fee shall not exceed six hundred ninety dollars;

(6) For the issuance of a duplicate barber or shop license, forty-five dollars;

(7) For the inspection of a new barber shop, change of ownership, or reopening of premises or facilities formerly operated as a barber shop, and issuance of a shop license, one hundred ten dollars;

(8) For the biennial renewal of a barber shop license, seventy-five dollars;

(9) For the restoration of a barber shop license, one hundred ten dollars;

(10) For each inspection of premises for location of a new barber school, or each inspection of premises for relocation of a currently licensed barber school, seven hundred fifty dollars;

(11) For the initial barber school license, one thousand dollars, and one thousand dollars for the renewal of the license;

(12) For the restoration of a barber school license, one thousand dollars;

(13) For the issuance of a student registration, forty dollars;

(14) For the examination and issuance of a biennial
teacher license, one hundred eighty-five dollars;

(15) For the renewal of a biennial teacher license, one hundred fifty dollars;

(16) For the restoration of an expired teacher license, two hundred twenty-five dollars, and sixty dollars for each lapsed year, provided that the total fee shall not exceed four hundred fifty dollars;

(17) For the issuance of a barber license by reciprocity pursuant to section 4709.08 of the Revised Code, three hundred dollars;

(18) For providing licensure information concerning an applicant, upon written request of the applicant, forty dollars;

(19) For a temporary pre-examination work permit under section 4709.071 of the Revised Code, not more than fifteen dollars.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that the fees do not exceed the amounts permitted by this section by more than fifty per cent.

(C) In addition to any other fee charged and collected under this section, the board shall ask each person renewing a license to practice as a barber whether the person wishes to make a two-dollar voluntary contribution to the Ed Jeffers barber museum. The board shall transmit any contributions to the treasurer of state for deposit into the occupational licensing fund.

Sec. 4709.13. (A) The state cosmetology and barber board may refuse to issue or renew or may suspend or revoke or impose
conditions upon any license or permit issued pursuant to this chapter for any one or more of the following causes:

(1) Advertising by means of knowingly false or deceptive statements;

(2) Habitual drunkenness or possession of or addiction to the use of any controlled drug prohibited by state or federal law;

(3) Immoral or unprofessional conduct;

(4) Continuing to be employed in a barber shop wherein rules of the board or department of health are violated;

(5) Employing any person who does not have a current Ohio license or permit to perform the practice of barbering;

(6) Owning, managing, operating, or controlling any barber school or portion thereof, wherein the practice of barbering is carried on, whether in the same building or not, without displaying a sign at all entrances to the places where the barbering is carried on, indicating that the work therein is done by students exclusively;

(7) Owning, managing, operating, or controlling any barber shop, unless it displays a recognizable sign or barber pole indicating that it is a barber shop, and the sign or pole is clearly visible at the main entrance to the shop;

(8) Violating any sanitary rules approved by the department of health or the board;

(9) Employing another person to perform or personally perform the practice of barbering in a licensed barber shop unless that person is licensed as a barber or holds a permit to practice barbering under this chapter;
(10) Gross incompetence.

(B)(1) The board may refuse to renew or may suspend or revoke or impose conditions upon any license or permit issued pursuant to this chapter for conviction of or plea of guilty to a felony committed after the person has been issued a license or permit under this chapter, shown by a certified copy of the record of the court in which the person was convicted or pleaded guilty.

(2) A conviction or plea of guilty to a felony committed prior to being issued a license or permit under this chapter shall not disqualify a person from being issued an initial license under this chapter.

(C) Prior to taking any action under division (A) or (B) of this section, the board shall provide the person with a statement of the charges against the person and notice of the time and place of a hearing on the charges. The board shall conduct the hearing according to Chapter 119. of the Revised Code. Any person dissatisfied with a decision of the board may appeal the board's decision to the court of common pleas in Franklin county.

(D) The board may adopt rules in accordance with Chapter 119. of the Revised Code, specifying additional grounds upon which the board may take action under division (A) of this section.

Sec. 4713.351. (A) For purposes of this section, a "limited event" includes, but is not limited to, the following:

(1) A charity event;

(2) On-location wedding or event preparation;
(3) A bridal or hair show;

(4) An on-location spa event;

(5) An on-location event at a location such as a nursing home, hospital, or other care facility that lacks an on-site salon or barber shop;

(6) An on-location event at the private residence of an individual who is unable to visit a fixed location salon or barber shop.

(B) Notwithstanding any provision of this chapter or Chapter 4709. of the Revised Code, or the rules adopted under either chapter, to the contrary, an individual who is licensed to provide services under Chapter 4709. or 4713. of the Revised Code may provide those services on premises other than a salon or a barber shop licensed under Chapter 4709., as applicable, for limited events only if the services provided are incidental to the licensee's practice in a salon or barber shop.

(C) The state cosmetology and barber board shall not require an individual who provides incidental services as described in this section to obtain an additional license or permit to provide those services.

Sec. 4729.41. (A)(1) A pharmacist licensed under this chapter who meets the requirements of division (B) of this section, and a pharmacy intern licensed under this chapter who meets the requirements of division (B) of this section and is working under the direct supervision of a pharmacist who meets the requirements of that division, may do any of the following:

(a) Administer immunizations for influenza to individuals who are seven years of age or older;
(b) Only pursuant to a prescription, administer to individuals who are seven years of age or older but not more than thirteen years of age any of the immunizations included in division (A)(2) of this section;

(c) Administer to individuals who are thirteen years of age or older any of the immunizations included in division (A)(2) of this section;

(d) Administer immunizations for COVID-19, if any, to individuals who are seven years of age or older.

(2) A pharmacist or pharmacy intern may administer in accordance with divisions (A)(1)(b) and (c) of this section either of the following:

(a) Any immunization that on March 19, 2015, is included in either of the following immunization schedules recommended by the advisory committee on immunization practices of the centers for disease control and prevention in the United States department of health and human services:

(i) The recommended immunization schedule for persons aged zero through eighteen years;

(ii) The recommended adult immunization schedule.

(b) Any other immunization specified in rules adopted under division (E)(1)(d) of this section.

(3) As part of engaging in the administration of immunizations or supervising a pharmacy intern's administration of immunizations, a pharmacist may administer epinephrine or diphenhydramine, or both, to individuals in emergency situations resulting from adverse reactions to the immunizations administered by the pharmacist or pharmacy intern.
(B) For a pharmacist or pharmacy intern to be authorized
to engage in the administration of immunizations pursuant to
division (A) of this section, the pharmacist or pharmacy intern
shall do all of the following:

(1) Successfully complete a course in the administration
of immunizations that meets the requirements established in
rules adopted under this section for such courses;

(2) Receive and maintain certification to perform basic
life-support procedures by successfully completing a basic life-
support training course that is certified by the American red
cross or American heart association or approved by the state
board of pharmacy;

(3) Practice in accordance with a protocol that meets the
requirements of division (C) of this section.

(C) All of the following apply with respect to the
protocol required by division (B)(3) of this section:

(1) The protocol shall be established by a physician
authorized under Chapter 4731. of the Revised Code to practice
medicine and surgery or osteopathic medicine and surgery.

(2) The protocol shall specify a definitive set of
treatment guidelines and the locations at which a pharmacist or
pharmacy intern may engage in the administration of
immunizations.

(3) The protocol shall satisfy the requirements
established in rules adopted under this section for protocols.

(4) The protocol shall include provisions for
implementation of the following requirements:

(a) The pharmacist or pharmacy intern who administers an
immunization shall observe the individual who receives the immunization to determine whether the individual has an adverse reaction to the immunization. The length of time and location of the observation shall comply with the rules adopted under this section establishing requirements for protocols. The protocol shall specify procedures to be followed by a pharmacist when administering epinephrine, diphenhydramine, or both, to an individual who has an adverse reaction to an immunization administered by the pharmacist or a pharmacy intern.

(b) For each immunization administered to an individual by a pharmacist or pharmacy intern, other than an immunization for influenza administered to an individual eighteen years of age or older, the pharmacist or pharmacy intern shall notify the individual's family physician or, if the individual has no family physician, the board of health of the health district in which the individual resides or the authority having the duties of a board of health for that district under section 3709.05 of the Revised Code. The notice shall be given not later than thirty days after the immunization is administered.

(c) For each immunization administered by a pharmacist or pharmacy intern to an individual younger than eighteen years of age pursuant to division (A)(1) of this section, the pharmacist or a pharmacy intern shall obtain permission from the individual's parent or legal guardian in accordance with the procedures specified in rules adopted under this section.

(D)(1) No pharmacist shall do either of the following:

(a) Engage in the administration of immunizations unless the requirements of division (B) of this section have been met;

(b) Delegate to any person the pharmacist's authority to
engage in or supervise the administration of immunizations.

(2) No pharmacy intern shall engage in the administration of immunizations unless the requirements of division (B) of this section have been met.

(E)(1) The state board of pharmacy shall adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall include the following:

(a) Requirements for courses in administration of immunizations, including requirements that are consistent with any standards established for such courses by the centers for disease control and prevention;

(b) Requirements for protocols to be followed by pharmacists and pharmacy interns in engaging in the administration of immunizations;

(c) Procedures to be followed by pharmacists and pharmacy interns in obtaining from the individual's parent or legal guardian permission to administer immunizations to an individual younger than eighteen years of age pursuant to division (A)(1) of this section;

(d) Provisions specifying any immunizations that may be administered under division (A)(2)(b) of this section.

(2) Prior to adopting rules regarding requirements for protocols to be followed by pharmacists and pharmacy interns in engaging in the administration of immunizations, the state board of pharmacy shall consult with the state medical board and the board of nursing.

(3) Prior to adopting rules specifying any immunizations
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that may be administered under division (A)(2)(b) of this section, the state board of pharmacy shall consult with the state medical board.

(F) In addition to the rules it adopts under division (E) of this section, the state board of pharmacy may adopt rules that change the immunizations authorized by division (A)(2)(a) of this section to reflect changes in the recommendations of the advisory committee on immunization practices. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4729.42. A pharmacist may order and administer diagnostic tests for COVID-19 and tests for COVID-19 antibodies.

Both of the following may, under the direct supervision of a pharmacist, administer diagnostic tests for COVID-19 and tests for COVID-19 antibodies:

(A) A pharmacy intern;

(B) A certified pharmacy technician.

Section 2. That existing sections 4709.02, 4709.05, 4709.12, 4709.13, and 4729.41 of the Revised Code are hereby repealed.

Section 3. That Section 30 of H.B. 197 of the 133rd General Assembly be amended to read as follows:

Sec. 30. (A) During the period of beginning on the date that the emergency declared by Executive Order 2020-01D was issued on, March 9, 2020, and ending on July 1, 2021, the requirement of division (A)(2)(a) of section 4723.09 of the Revised Code is suspended. Accordingly, during such period, the Board of Nursing shall grant to an applicant described in division (A) of section 4723.09 of the Revised Code a temporary
license to practice nursing as a registered nurse or as a licensed practical nurse if the conditions of divisions (A)(1) and (A)(2)(b) to (d) of section 4723.09 of the Revised Code have been met.

For each nurse practicing under a temporary license as authorized by this division, the State Board of Nursing shall recognize any hours the nurse works under the temporary license and count those hours towards any outstanding clinical experience that must be completed before the nurse is eligible to take the examination that is required when division (A)(2)(a) of section 4723.09 of the Revised Code is no longer suspended.

(B) A temporary license issued under this section shall be valid until whichever of the following dates occurs first:

(1) The date that is ninety days after December 1, 2020;

(2) The date that is ninety days after the duration of the period of the emergency described in division (A) of this section July 1, 2021.

(C)(1) An individual is not eligible for a temporary license issued under this section if any of the following apply:

(a) The individual has previously taken and failed the examination for licensure to practice as a registered nurse or as a licensed practical nurse;

(b) A criminal records check conducted in accordance with section 4723.091 of the Revised Code indicates that the individual has been convicted of, pleaded guilty to, or had a judicial finding of guilt for, any felony;

(c) The individual has taken a drug test and failed that test, as determined by the Board.
(2) If, while holding a temporary license issued under this section, any of the following occur, the licensee's temporary license is void and has no effect immediately beginning on the date of the occurrence:

(a) The licensee fails the examination for licensure to practice as a registered nurse or as a licensed practical nurse;

(b) A criminal records check conducted in accordance with section 4723.091 of the Revised Code indicates that the licensee has been convicted of, pleaded guilty to, or had a judicial finding of guilt for, any felony;

(c) The licensee fails a drug test, as determined by the Board.

Section 4. That existing Section 30 of H.B. 197 of the 133rd General Assembly is hereby repealed.

Section 5. Notwithstanding any provision of law to the contrary, each educator preparation program approved under section 3333.048 of the Revised Code shall develop and implement a plan to provide its students with alternative experiences, assignments, or instruction in the 2020-2021 academic year to make up any hours or weeks of clinical experiences, including field experiences, student teaching, and internship placements, that the students miss due to the Director of Health's order under section 3701.13 of the Revised Code "In re: Order the Closure of All K-12 Schools in the State of Ohio" issued on March 14, 2020, or any local board of health order, and any extension of any order, based on the implications of COVID-19 or due to any other closure of schools or implementation of limited hours based on the implications of COVID-19. The alternative experiences, assignments, or instruction shall allow students to
demonstrate mastery of the expected outcomes of clinical experiences. The alternative experiences, assignments, or instruction may include virtual learning, designing lessons and units of instruction, selecting and implementing instructional strategies, teaching lessons and content, assessing learning to evaluate student progress and inform instructional decisions, creating a supportive learning environment, managing the classroom effectively, and other appropriate activities. The Department of Higher Education and the Department of Education shall consider a student who successfully completes make up hours or weeks in the 2020-2021 academic year using alternative experiences, assignments, or instruction eligible for licensure and endorsement recommendations in the same manner as a student who completes clinical experiences. This section shall not apply to a barber school licensed under Chapter 4709. of the Revised Code or a school of cosmetology licensed under Chapter 4713. of the Revised Code.

Section 6. (A) As used in this section:

(1) (a) "Occupational license" means any license, certificate, permit, or other authorization issued by a state agency that allows the holder to practice a job or profession.

(b) "Occupational license" does not include a license issued pursuant to rules prescribed under Section 5 of Article IV, Ohio Constitution.

(2) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(3) "Distance education" means continuing education courses in which instruction is accomplished through the use of interactive, electronic media and where the teacher and student
are separated by distance or time, or both.

(B)(1) Except as provided in division (B)(2) of this section and notwithstanding any provision of law to the contrary, beginning on the effective date of this section and ending on December 1, 2020, any requirement that a person must complete continuing education to maintain or renew an occupational license is suspended.

(2) Division (B)(1) of this section does not apply if the laws governing the applicable occupational license allow a person to complete continuing education through distance education.

Section 7. Section 4729.41 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 101 and H.B. 541 of the 132nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.