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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 673*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate General Government and Agency Review

Primary Sponsor: Rep. Roemer

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SUMMARY

Educator preparation program make up hours and weeks

- Requires each educator preparation program to develop and implement a plan to provide its students with alternative experiences in the 2021-2022 academic year to make up hours or weeks of clinical experiences missed due to school closure or limited hours because of COVID-19.
- Requires the Department of Higher Education and Department of Education to consider a student who successfully completes make-up hours or weeks in the 2021-2022 academic year using alternative experiences eligible for licensure and endorsement recommendations in the same manner as a student who completes clinical experiences.

Cosmetology Law and Barber Law changes

- Requires the State Cosmetology and Barber Board to issue a temporary pre-examination work permit to practice barbering to an individual who applies for and is eligible to take the examination required for a barber license if the individual meets certain conditions.
- Requires the Board to charge a fee of not more than \$15 for the permit.
- Allows an individual who is licensed to provide services under the Cosmetology Law or Barber Law to provide those services on premises other than a licensed salon or a licensed barber shop, as applicable, for limited events only if the services provided are incidental to the licensee's practice in a salon or barber shop.

* This analysis was prepared before the report of the Senate General Government and Agency Review Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Prohibits the Board from requiring an individual who provides incidental services as described above to obtain an additional license or permit to provide those.
- Eliminates a prohibition against using any room or place for barbering that is also used for residential or other business purposes, unless it is separated by a substantial ceiling-high partition.
- Eliminates a requirement that one barber member of the Board be an employer barber and the other be employed as a barber and specifies that a Board member's term is not affected if the member is serving on the bill's effective date.
- Allows the Board to reactivate an inactive license to practice a branch of cosmetology, an advanced license, or an instructor license on receiving satisfactory proof that the licensee has completed required continuing education.
- Eliminates provisions allowing the Board to grant a temporary work permit to an individual with an inactive license to practice a branch of cosmetology.
- Eliminates requirements regarding barber examinations dealing with minimum passing scores that an individual must attain, waiting periods to reapply to take parts of an examination that an individual did not pass, and required additional study if an individual failed to reapply for or failed a second time part of the examination.
- Eliminates a requirement that an individual who does not pass the barber teacher license examination must wait one year and remain employed as an assistant barber teacher before applying to retake the examination.

Temporary nursing licenses without examination

- Continues until July 1, 2021, the suspension of the requirement that an applicant pass a licensure examination to receive a license to practice as a registered nurse or licensed practical nurse and adds eligibility limitations.
- Specifies that a nursing license issued without examination is valid until July 1, 2021, unless the licensee fails the licensing examination, is convicted of a felony, or fails a drug test.
- Requires the Nursing Board to count hours worked under a temporary license issued without examination towards any clinical experience that must be completed before a nurse is eligible to take the licensure examination (when the temporary license expires).

Administration of immunizations and COVID-19 tests

- Authorizes a pharmacist or pharmacy intern to administer immunizations for COVID-19 to individuals seven and older.
- Authorizes a pharmacist or pharmacy intern to administer to adults any immunization that is authorized or approved for use in adults but not yet included in the recommended adult schedule.

- Authorizes a pharmacist to order and administer diagnostic tests for COVID-19 and COVID-19 antibodies.
- Authorizes a pharmacy intern or certified pharmacy technician to administer diagnostic tests for COVID-19 and COVID-19 antibodies if the intern or technician is under the direct supervision of a pharmacist.
- Authorizes podiatrists to administer immunizations for COVID-19 to individuals seven and older.

Energy efficiency programs for low-income customers

- Requires (as an exception to the December 31, 2020, termination date of portfolio plans) all energy efficiency (EE) programs for low-income customers with an annual income at or below 200% of the federal poverty level that are included in an electric distribution utility (EDU) portfolio plan to terminate on September 27, 2021.
- Provides for an extension of EDU cost recovery as needed for cost reconciliation of up to 270 days after the later of the date of deemed EE compliance or full expenditure of collected revenues for portfolio plans.

Continuing education requirement suspension

- Suspends any requirement that a person must complete continuing education to maintain or renew an occupational license beginning on the bill's effective date and ending on July 1, 2021.
- Specifies that the suspension does not apply if the laws governing the applicable occupational license allow a person to complete continuing education through distance education.

Effective date

- Declares an emergency.

DETAILED ANALYSIS

Educator preparation program make up hours and weeks

The bill requires each educator preparation program to develop and implement a plan to provide its students with alternative experiences, assignments, or instruction in the 2021-2022 academic year to make up any hours or weeks of clinical experiences missed due to school closure or limited hours because of COVID-19. These alternatives must allow students to demonstrate mastery of the expected outcomes of clinical experiences. They may include:

1. Virtual learning;
2. Designing lessons and units of instruction;
3. Selecting and implementing instructional strategies;
4. Teaching lessons and content;

5. Assessing learning to evaluate student progress and inform instructional decisions;
6. Creating a supportive learning environment;
7. Managing the classroom effectively; and
8. Other appropriate activities.

The bill requires the Department of Higher Education and the Department of Education to consider a student who successfully completes make-up hours or weeks in the 2021-2022 academic year using these alternatives eligible for licensure and endorsement recommendations in the same manner as a student who completes clinical experiences.

The bill specifies that this provision does not apply to a barber school or school of cosmetology.¹

Background

Approval of educator preparation programs

Continuing law requires the Chancellor of Higher Education and Superintendent of Public Instruction to establish metrics for the preparation of educators and other school personnel, which must be aligned with the standards for educator licenses adopted by the State Board of Education. The Chancellor must approve institutions of higher education engaged in the preparation of educators and other school personnel that the Chancellor determines maintain satisfactory training procedures and records of performance.²

Administrative rules regarding clinical experiences

Under the Chancellor's rules, an educator preparation program must be designed to include a minimum of 100 clock hours of field experience prior to student teaching and a minimum of 12 weeks of student teaching for initial teacher licensure. Additionally, an educator preparation program must include a minimum of 50 clock hours of field experiences for each endorsement and each additional licensure area beyond the candidate's initial license.³

Educator preparation programs and COVID-19 guidance

The Department of Higher Education issued guidance to educator preparation programs in March 2020 regarding students who were at risk of not meeting clinical experience requirements due to efforts to curb the spread of COVID-19. That guidance, which was updated in August 2020 and applies to the 2020-2021 academic year, indicates that the Department is providing programs with flexibility in meeting the requirements for student clinical experiences. Programs must offer students alternative experiences, assignments, or instruction to allow students to demonstrate mastery of expected outcomes as an alternative to traditional

¹ Section 5.

² R.C. 3333.048, not in the bill.

³ Ohio Administrative Code (O.A.C.) 3333-1-05(C).

experiences. Students who successfully complete the alternative experiences will be eligible for licensure and endorsement recommendations.⁴

Cosmetology Law and Barber Law changes

Temporary pre-examination work permit to practice barbering

The bill requires the State Cosmetology and Barber Board to issue a temporary pre-examination work permit to practice barbering to an individual who applies for and is eligible to take the examination required for a barber license under continuing law if the individual satisfies all of the following conditions:

1. The individual has not previously failed an examination required for a barber license;
2. The individual pays a fee of not more than \$15 as set by the Board;
3. The individual satisfies all other conditions established by rules adopted by the Board.

An individual who holds a temporary pre-examination work permit issued under the bill may practice barbering until the date the individual is scheduled to take an examination required for a barber license. A permit holder under the bill must practice under the supervision of an individual holding a current, valid barber license. A permit issued under the bill is renewable in accordance with rules adopted by the Board.

The bill requires the Board to adopt rules regarding conditions an individual must satisfy to qualify for a permit and the conditions and methods for renewing a permit. Additionally, the bill allows the Board to adopt rules to establish additional conditions for a temporary pre-examination work permit that is applicable to individuals who are licensed to practice barbering in another state or country.⁵

Under continuing law, the Board must issue similar temporary pre-examination work permits to practice a branch of cosmetology to an individual who applies for and is eligible to take the examination required for a practicing license under the Cosmetology Law⁶ if the individual meets certain conditions.⁷

Location of cosmetology or barber services

The bill allows, notwithstanding any provision of the Cosmetology Law or Barber Law,⁸ or the rules adopted under either law, to the contrary, an individual who is licensed to provide services under the Cosmetology Law or Barber Law to provide those services on premises other than a licensed salon or a licensed barber shop, as applicable, for limited events only if the

⁴ <https://www.ohiohighered.org/educator-preparation/covid-19-guidance>.

⁵ R.C. 4709.071, 4709.05, and 4709.12, with conforming changes in R.C. 4709.02 and 4709.13.

⁶ R.C. Chapter 4713.

⁷ R.C. 4713.22 and 4713.10, not in the bill.

⁸ R.C. Chapter 4709.

services provided are incidental to the licensee's practice in a salon or barber shop. 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.

The bill prohibits the Board from requiring an individual who provides incidental services as described above to obtain an additional license or permit to provide those services.⁹

Additionally, the bill eliminates a prohibition against using any room or place for barbering that is also used for residential or other business purposes, unless it is separated by a substantial ceiling-high partition.¹⁰

Current law generally requires individuals licensed by the Board to perform services in a licensed facility. An administrative rule allows the Board to issue a temporary event salon license to a licensee who wishes to provide services on premises other than a fixed location. The rule requires an applicant for this license to complete an application for each temporary event, pay an application fee of \$10, and affirm that the salon premise for the temporary event will meet the conditions for a salon license under current law.¹¹

State Cosmetology and Barber Board membership

The bill alters the Board membership by eliminating the requirement that one of the two barber members of the Board be an employer barber and the other barber member be employed as a barber. The bill maintains the continuing law requirement that the two barber members must have been licensed as barbers in Ohio for at least five years immediately before appointment. The bill states that this change in membership does not affect the terms of the Board's members who are serving on the bill's effective date.¹²

Under continuing law, the other members of the Board include one licensed cosmetologist or cosmetology instructor, two licensed cosmetologists who have actively managed salons for at least five years, one licensed independent contractor practicing a branch of cosmetology, one individual representing cosmetology instructors at vocational and technical

⁹ R.C. 4713.351.

¹⁰ R.C. 4709.02(L), repealed.

¹¹ R.C. 4709.02 and 4709.05; R.C. 4713.14, and 4713.35, not in the bill; O.A.C. 4713-8-09.

¹² R.C. 4713.02 and Section 7.

schools, one owner or executive actively engaged in daily operations of a licensed cosmetology school, one owner of at least five salons, one nurse or physician, one member representing the general public, one individual holding a valid tanning permit who has owned or managed a tanning facility for at least the last five years, and one licensed esthetician who has been actively practicing esthetics for at least the past five years.¹³

Inactive cosmetology licenses

Under continuing law, the Board may develop procedures to classify as inactive a license to practice a branch of cosmetology, advanced license, or instructor license. The bill eliminates the Board's ability to restore an inactive license or registration until January 31 of the next odd-numbered year after the license was classified inactive, thus allowing the Board to restore it only when the Board receives satisfactory proof regarding completion of continuing education requirements set by the Board in rule as under continuing law. Current law allows restoration only on the later of those two events. The bill also eliminates the temporary work permit, which allows an individual holding an inactive license in a branch of cosmetology to practice that branch while remaining inactive.¹⁴

Barber and barber teacher examinations

The bill eliminates the requirement that an individual must attain at least a 75% score on each part of the barber examination to be eligible for a barber license. Instead, an individual is ineligible for a barber license if the individual fails any part of the examination. Under continuing law, an applicant who does not pass a part of the barber examination may reapply for examination. The bill eliminates the requirement that the applicant wait 90 days after the date the scores are released before reapplying to retake that part of the examination. The bill also eliminates the requirement for an individual who does not pass a part of the barber examination and fails to reapply within 90 days or fails the part a second time to complete an additional 200 hours of Board approved study in order to reapply for the examination.¹⁵

The bill eliminates the requirement that an individual who does not pass the barber teacher license examination must wait one year and remain employed as an assistant barber teacher before applying to retake the examination.¹⁶

Temporary nursing licenses without examination

H.B. 197 of the 133rd General Assembly temporarily suspended the requirement that an applicant pass a licensure examination accepted by the State Board of Nursing to receive a license to practice as a registered nurse or licensed practical nurse. The bill changes the duration of the suspension, making it effective during the period beginning on the date the emergency declared by Executive Order 2020-01D was issued, March 9, 2020, and ending on

¹³ R.C. 4713.02.

¹⁴ R.C. 4713.08 and 4713.61.

¹⁵ R.C. 4709.07.

¹⁶ R.C. 4709.10.

July 1, 2021, rather than during the emergency declared by Executive Order 2020-01D as under current law.

To be eligible for the license, the bill specifies that an individual must not have (1) previously taken and failed the licensure examination, (2) been convicted of, pleaded guilty to, or had a judicial finding of guilt for, any felony, or (3) failed a drug test, as determined by the Nursing Board.

The bill specifies that a nursing license issued without examination is generally valid until July 1, 2021; it is immediately void, however, if the licensee (1) takes and fails the licensure examination, (2) is convicted of, pleads guilty to, or has a judicial finding of guilt for, any felony, or (3) fails a drug test, as determined by the Nursing Board. Currently, under H.B. 197, a nursing license issued without examination is valid until whichever of the following occurs first: (1) March 1, 2021 (90 days after December 1, 2020) or (2) the date that is 90 days after the duration of the COVID-19 emergency period.¹⁷

The bill requires the Nursing Board to recognize any hours a nurse works under a temporary license issued without examination and count those hours towards any outstanding clinical experience that must be completed before the nurse is eligible to take the examination (at the time when the temporary license is no longer valid and the examination requirement is no longer suspended).¹⁸

Pharmacist administration of immunizations and COVID-19 tests

COVID-19 immunizations and tests

Subject to the same requirements and limitations as in current law for the administration of flu shots, the bill authorizes a pharmacist or pharmacy intern to administer immunizations for COVID-19, if any, to individuals seven and older. Some of the requirements in current law that apply through the bill to pharmacist and pharmacy intern administration of COVID-19 immunizations include (1) completing a course in the administration of immunizations, (2) maintaining CPR certification, and (3) practicing in accordance with a physician-established protocol.¹⁹

In addition to authorizing the administration of COVID-19 immunizations, the bill authorizes a pharmacist to order and administer diagnostic tests for COVID-19 and tests for COVID-19 antibodies. Additionally, pharmacy interns and certified pharmacy technicians may administer the tests if under the direct supervision of a pharmacist.²⁰

¹⁷ Section 30 of H.B. 197 of the 133rd General Assembly and Sections 3 and 4.

¹⁸ Section 3.

¹⁹ R.C. 4729.41.

²⁰ R.C. 4729.42.

Approved adult immunizations not yet on recommended schedule

The bill authorizes pharmacists and pharmacy interns to administer to adults any immunization that is authorized or approved for use in adults but not yet included in the recommended adult schedule.²¹ Under current law, pharmacists and pharmacy interns may administer to adults any immunization on the adult immunization schedule recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention in the U.S. Department of Health and Human Services. The bill authorizes administration of approved immunizations to adults before they are officially added to the adult schedule.

Podiatrist administration of COVID-19 immunizations

The bill authorizes podiatrists to administer immunizations for COVID-19 to individuals age seven and older.²² This is in addition to recently enacted law²³ that authorizes podiatrists to administer flu shots to individuals age seven and older. Other than this limited immunization authority, the practice of podiatric medicine is otherwise limited to the treatment of foot and foot-related ailments and superficial hand lesions.²⁴

Energy efficiency programs for low-income customers

Termination exception

Under the bill, energy efficiency (EE) programs that are included in an electric distribution utility (EDU) portfolio plan that benefit, and are limited to, low-income customers with an annual income at or below 200% of the federal poverty level will terminate on September 27, 2021. Under current law, all portfolio plans terminate on December 31, 2020, even if they benefit, or are limited to, such low-income customers.²⁵

Cost recovery extension

Current law requires that upon the date full compliance with EE requirements is deemed achieved, any EDU cost recovery mechanisms authorized by PUCO for compliance with EE requirements must be terminated, except as needed to reconcile the revenue collected and the allowable compliance costs for compliance efforts occurring before full compliance is deemed achieved. The bill provides for an extension of EDU cost recovery mechanisms for all portfolio plans as needed for cost reconciliation associated with compliance efforts up to 270

²¹ R.C. 4729.41(A)(2)(b).

²² R.C. 4731.512.

²³ S.B. 178 of the 133rd General Assembly.

²⁴ R.C. 4731.51, not in the bill.

²⁵ R.C. 4928.66(F)(2).

days after the sooner of the following: (1) the termination of an EDU cost recovery mechanism or (2) when collected revenues have been expended.²⁶

Continuing education requirement suspension

The bill suspends any requirement that a person must complete continuing education to maintain or renew an occupational license beginning on the bill's effective date and ending on July 1, 2021. The provision applies notwithstanding any law to the contrary. However, the suspension does not apply if the laws governing the applicable occupational license allow a person to complete continuing education through distance education.

For purposes of this provision:

- "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. "Occupational license" does not include a license issued pursuant to rules of the Supreme Court of Ohio governing admission to the practice of law.²⁷
- "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.²⁸

Effective date

The bill declares an emergency by stating its provisions are necessary to respond to the declared pandemic and global health emergency related to COVID-19 and to allow low-income customers to benefit from, and electric distribution utilities to reconcile costs related to, energy efficiency programs set to terminate. If passed as an emergency law, the bill will go into effect immediately following the Governor's signature.²⁹

HISTORY

Action	Date
Introduced	05-26-20
Reported, H. State & Local Gov't	06-09-20
Passed House (94-0)	06-10-20
Reported, S. General Gov't & Agency Review	---

H0673-RS-133/ks

²⁶ R.C. 4928.66(G)(3).

²⁷ Ohio Constitution, Article IV, Section 5.

²⁸ Section 6.

²⁹ Section 9.