

## **Boards of Cosmetology and Barbering—Body Art Permits and Exemption for Adult Care Homes; HB 2125**

**HB 2125** amends law related to tattooing, cosmetic tattooing, and body piercing and exempts adult care homes and long-term care units of medical care facilities from statutes governing barbering and cosmetology. The bill authorizes the Kansas State Board of Cosmetology (Board) to create and issue charitable event permits and demonstration permits, requires the Board's administrative proceedings to be conducted in accordance with the Kansas Administrative Procedure Act and be reviewable in accordance with the Kansas Judicial Review Act, allows the Board to issue cease and desist orders to persons who are not license holders, and shortens the time period certain case history cards must be retained by licensees.

### ***Tattooing, Cosmetic Tattooing, and Body Piercing***

#### *Administrative Proceedings and Appeals*

The bill requires the Board to conduct administrative proceedings in accordance with the Kansas Administrative Procedure Act and makes actions in any administrative proceeding reviewable in accordance with the Kansas Judicial Review Act.

The bill states judicial review shall be taken if a petitioner appealing an order of the Board files a bond with the reviewing court conditioned on payment of assessed costs if the decision of the Board is sustained. The Board will not be required to file any bond.

The bill states if an administrative order of the Board is adverse to an applicant, apprentice, or licensee, costs incurred for any investigation or administrative proceeding may be assessed against the party or parties to the proceeding. If the Board is not the prevailing party, then costs incurred shall be paid from the Cosmetology Fee Fund. The Board is required to include any assessment of costs incurred as part of its final order, along with findings and conclusions in support of the assessment.

The bill defines "costs incurred" to include, but not be limited to:

- Presiding officer fees and expenses, only if the Board has designated or retained the services of an independent contractor or the Office of Administrative Hearings to perform presiding officer functions;
- Costs of preparing any transcripts;
- Reasonable investigation costs;
- Witness fees and expenses; and
- Mileage, travel expenses, and subsistence allowances of Board employees and fees and expenses of agents of the Board who provide services.

Moneys collected by the Board from administrative proceedings will be deposited in the Cosmetology Fee Fund.

### *Charitable Event Permit*

The bill creates a charitable event permit under which licensees will be able to provide tattooing, cosmetic tattooing, or body piercing services at no cost to recipients at the charitable event. The charitable event permit expires 30 days after issuance by the Board.

The bill defines “charitable event” to mean an event conducted for a charitable purpose held at a specific time and location. The bill defines “charitable purpose” to mean any purpose that promotes, or purports to promote, directly or indirectly, the well-being, in general or limited to certain activities, endeavors, or projects, of the public at large, any number of persons, or any humane purpose.

The bill requires the Board to adopt, on or before December 31, 2023, rules and regulations necessary for the charitable event permit.

### *Demonstration Permit*

The bill creates a demonstration permit which authorizes a person to provide tattooing, cosmetic tattooing, or body piercing services at a state or national convention or any other event location approved by the Board, or as a guest artist at an establishment licensed by the Board, if:

- The person performing the services is licensed to perform such profession in another jurisdiction; and
- The license has not been revoked, suspended, or conditioned from the practice of such profession.

The bill requires the Board to accept a valid visa or passport identification number for an applicant who is a citizen of a foreign country, has not been issued a Social Security number, and has not been licensed by another state.

The demonstration permit expires 14 days after issuance by the Board.

The bill requires the Board to adopt, on or before December 31, 2023, rules and regulations necessary for the demonstration permit.

### *Cease and Desist Orders*

The bill amends law to allow the Board to issue cease and desist orders to a person who is not a license holder upon a determination that such person has violated an order or a rule or regulation of the Board, as well as to licensees. Current law allows the Board to issue cease and desist orders only to licensees.

### *Case History Card Retention*

The bill shortens the time period tattoo artists, cosmetic tattoo artists, and body piercers are required to retain case history cards for clients from five years to three years.

### ***Exemptions from Acts Regulating Cosmetologists and Barbers***

#### *Exemptions*

The bill exempts adult care homes and long-term care units of medical care facilities from:

- Making application to establish a salon or clinic with the Board of Cosmetology;
- Paying the new salon or clinic license fee;
- Submitting to inspection of equipment as to safety and sanitary condition of the premises;
- Holding a salon or clinic license as issued by the Board of Cosmetology; and
- Submitting to inspection by the Kansas Board of Barbering.

#### *Definitions*

The provisions apply to an “adult care home,” defined in continuing law as any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential healthcare facility, home plus, boarding care home, and adult day care facility, all of which are classifications of adult care homes and are required to be licensed by the Secretary for Aging and Disability Services.

The provisions also apply to a “medical care facility,” defined in continuing law as a hospital, ambulatory surgical center, or recuperation center, except that “medical care facility” does not include a hospice that is certified to participate in the Medicare program and that provides services only to hospice patients.