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MEMORANDUM

To: Chairman Tarwater and House Committee on Commerce, Labor and Economic Development

From: Charles Reimer, Office of Revisor of Statutes

Date: 1/30/2023

Subject: HB 2125

HB 2125 adds provisions to Kansas law pertaining to the regulation of tattoo artists, cosmetic tattoo artists and body piercers by the Kansas State Board of Cosmetology (including all professions regulated pursuant to K.S.A. 65-1940 through 65-1954) including new law pertaining to administrative proceedings and the assessment of costs, authorization of charitable event permits and demonstration permits, and the extension of current law regarding the Board's authority for cease and desist orders beyond licensees to any person.

Administrative Proceedings of the Board of Cosmetology and Appeals with respect to professions regulated pursuant to K.S.A. 65-1940 through 65-1954 (New Section 1)

* Administrative proceedings with respect to the regulation of tattoo artists, cosmetic tattoo artists or body piercers are to be conducted in accordance with the Kansas Administrative Procedure Act, reviewable in accordance with the Kansas Judicial Review Act.

* If the Board's administrative order is adverse to an applicant, apprentice or licensee, costs incurred for any investigation or the administrative proceeding may be assessed against the party or parties. Any such assessment of costs shall be included in the Board's final order, along with findings and conclusions in support of the assessment.

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* "Costs incurred" include:

Presiding officer fees and expenses if the Board uses an independent contractor of the office of administrative hearings to perform presiding officer functions;
Transcript costs;
Investigative costs;
Witness fees and expenses;
Board employee or Board agent expenses such as mileage, travel, subsistence allowances, and agent expenses or fees.

* If the Board decision is in favor of the party or parties then costs incurred shall be paid from the cosmetology fee fund.

* A petitioner appealing a Board decision must file a bond with the reviewing court conditioned on payment of assessed costs if the decision of the Board is sustained. The Board need not file any bond.

* Moneys collected by the Board from proceedings go to the Cosmetology Fee Fund.

Charitable Event License (New Section 2)

* Any person may apply; permit may be granted by the Board for a charitable event where persons licensed by the Board to practice the professions of tattooing, cosmetic tattooing, or body piercing will provide services at no cost to recipients.

* The charitable event permit expires 30 days after issuance.

* "Charitable event" means an event conducted for a "charitable purpose," as defined in the bill, held at a specified time and location.

* "Charitable purpose" means "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 Board shall adopt rules and regulations.

Demonstration Permit (New Section 3)

* Any person may apply; must pay fee; permit may be granted to authorize a person to provide tattooing, cosmetic tattooing, or body piercing services at a state or national convention 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 made subject to conditions.

* The Board shall accept a valid visa or passport identification number instead of a social security number for applicants who are citizens of a foreign country and have not been issued a social security number or licensed by another state.

* Demonstration permits expire not later than 14 days after issuance.

* The Board shall adopt rules and regulations.

Board Issuance of Cease and Desist Order Extended to Unlicensed Persons (Section 4)

* K.S.A. 64-1941 is amended to include persons who are not license holders as subject to a cease and desist order issued by the Board upon a determination that any person has violated an order or a rule or regulation of the Board.

Effective Date

If adopted, July 1, 2024.