

A Review of the Mississippi Board of Barber Examiners

A Report to the Mississippi Legislature
Report #676
November 30, 2022



PEER Committee

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About PEER:

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.



Joint Legislative Committee on Performance Evaluation and Expenditure Review

PEER Committee

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November 30, 2022

Honorable Tate Reeves, Governor
Honorable Delbert Hosemann, Lieutenant Governor
Honorable Philip Gunn, Speaker of the House
Members of the Mississippi State Legislature

On November 30, 2022, the PEER Committee authorized release of the report titled *A Review of the Mississippi Board of Barber Examiners*.

Representatives

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This report does not recommend increased funding or additional staff.

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CONCLUSION: The Mississippi Board of Barber Examiners (Barber Board) is responsible for regulating the profession of barbering. The Barber Board experiences several issues that decrease the effectiveness and efficiency of the Board including: issues with regulatory activities, issues with financial management and controls, and administrative issues. Because the Barber Board and the Mississippi State Board of Cosmetology oversee licensees with similar scopes of practice and have both demonstrated substantial deficiencies in their operations (also see PEER Report #665), the state could benefit from a solution that would help address the boards' problems and also result in cost savings (i.e., placement of both boards under the Mississippi Department of Health).



BACKGROUND

Barbering is defined in MISS. CODE ANN. § 73-5-39 (1972).

Board

The Barber Board is composed of five members that serve four-year terms. The Barber Board regulates schools, barber shops, and individuals by determining school curricula, issuing licenses, and establishing and enforcing its *Rules and Regulations*.

Staff

MISS. CODE ANN. § 73-5-3 (1972) authorizes the Board to employ staff members to assist with Board activities. As of June 6, 2022, the Board employs two full-time staff members and three part-time inspectors.

Funding

The Barber Board is a special fund agency supported by funds collected from licensing, inspection, and examination fees. Additionally, the Board is supported by funds for fines collected from disciplinary actions.

The Barber Board regulates 35 schools, 2,099 shops, and a total of 2,896 total practitioners (2,756 barbers and 140 instructors).



KEY FINDINGS

- **Mississippi has more restrictive prerequisites to qualify for barber licensure testing than 40 states.**

The new universal licensing law has resulted in a competitive disadvantage for Mississippi residents. Further, age and education requirements defined in the Board's *Rules and Regulations* conflict with those required by statute.

- **The Board's examination practices are not effective in evaluating a candidate's preparedness for licensure.**

The Board's state laws exam lacks content validity, as six of the ten total questions do not ask valid, job-related questions. The Board's examination practices may also hinder accessibility for some licensure candidates. Additionally, the Board lacks detailed scoring criteria for the practical exam, and Board members do not receive training on administration of the exam.

- **In FY 2022, 39% of candidates' attempts to pass the required licensure exams resulted in grades sufficient for licensure.**

The Board does not compile or share the data required to evaluate student success trends and lacks regulations to address underperforming schools. This limits transparency and inhibits a school's ability to assess its own performance.

- **In FY 2022, the Board's inspectors only conducted 191 inspections of the 2,134 barber shops and schools licensed by the Board.**

Additionally, the Board lacks a uniform process for conducting inspections and imposing fines for violations.

- **Until August 2022, Barber Board members were unaware that the owner of the barber school Trendsetters had been convicted of fraud despite the fact that the Board's chief inspector testified in court about the case in 2021.**

Upon learning about the case, the Board did not immediately take action to revoke the licenses of the school and its owner. The Board's delayed action suggests a significant deficiency in the Board's enforcement capabilities and actions.

Issues with Per Diem and Travel Reimbursement

In FY 2022, the Barber Board experienced the following issues with per diem and travel reimbursement:

- paying Board members for days in which they performed no official Board duties;
- paying Board members and staff for meals which could be seen as an inefficient use of Board resources;
- reimbursing travel expenses without sufficient documentation, authorization, and receipts; and,
- erroneously reimbursing staff at a lower rate for mileage than the rate set in state policy.

Additionally, approximately 25% of the Board's travel expenses for FY 2022 can be attributed to the Board's part-time chief inspector, who performs regular administrative duties in Jackson but lives in another geographical region in the state. While not a violation of state law, paying this employee to regularly travel to and from Jackson could represent an inefficient use of resources.

Issues with Internal Controls

The Barber Board lacks an effective internal control environment, which increases the risk of financial mismanagement (e.g., fraud). It could also compromise the accuracy and completeness of the Board's accounting records. The Board has also experienced issues with segregation of duties and surety bonds.

Issues with Financial Management

The Barber Board's imprudence in its financial management has negatively impacted the Board and its licensees. The Board has experienced the following financial management issues:

- The Barber Board's lack of knowledge and expertise related to required retirement contributions cost the Board and its licensees \$19,970.71 in delinquent interest payments.
- The Barber Board might have extended its current lease with terms that are not in the state's best interest (e.g., lowest price) and could have negatively impacted the Board's budget.
- The Barber Board deposits licensee payments approximately every three days, with only 11% of the agency's deposits made in compliance with the two-day requirement outlined in state law.

Other Administrative Issues

- Records and data management: Records are insufficient to easily determine regulatory information and are not easily accessible to Board staff.
- Board's current office location: The Board office is not located in a state-owned office building and has not been easily accessible to licensees or the public since March 2020. Additionally, the office is not conducive to public participation during Board meetings.



SUMMARY OF RECOMMENDATIONS

The Legislature should consider:

- dissolving the Barber Board and the State Board of Cosmetology to create a Barbering Advisory Council and a Cosmetology Advisory Council within the Mississippi Department of Health's Professional Licensure Division; and,
- amending MISS. CODE ANN. § 73-5-1 (1972) et seq., to set minimum age and education requirements comparable to those in contiguous states, to allow practitioners to qualify for licensing examinations through apprenticeship hours in lieu of schooling hours, and to prohibit Board members from administering exams.

The Board should:

- establish regulations to address underperforming schools;
- compile and distribute data on exam scores to licensed schools, and make this data publicly available;
- amend its *Rules and Regulations* to be consistent with MISS. CODE ANN. § 73-5-1 et seq.;
- amend its examination practices to ensure exams are up-to-date, effective, and accessible;
- ensure transparency and efficient use of public funds by improving its compliance with state law and Department of Finance and Administration (DFA) travel reimbursement policies;
- adopt and enforce policies and procedures that strengthen internal controls and financial management;
- adhere to DFA policies related to leasing office space; and,
- improve its records, management of information, and accessibility of its data.

A Review of the Mississippi Board of Barber Examiners

Introduction

Authority

The PEER Committee conducted this review of the operations of the Mississippi Board of Barber Examiners (Barber Board) pursuant to the authority granted by MISS. CODE ANN. § 5-3-51 (1972) et seq.

Scope and Purpose

PEER sought to:

- describe the Barber Board and its composition, staffing, and responsibilities;
- determine whether or not the regulation of the barbering profession is necessary in order to reduce risks to the public;
- determine if the Board complies with relevant statutes for licensing and regulating barbering and related professions;
- determine if the Board is effective and transparent in its regulation of the barbering industry;
- determine if the Board has effective internal controls in place to protect the interests of the public and make efficient use of its per diem and travel resources; and,
- determine alternative organizational structures for regulating the barbering and cosmetology industries in Mississippi.

Method

To conduct this analysis, PEER reviewed:

- state agency appropriation bills from FY 2018 to present;
- applicable state and federal laws and regulations; and,
- relevant data and documents provided by the Barber Board, including licensing data, financial records, inspection data, and contracts.

PEER also interviewed:

- the Barber Board and its staff;
- personnel from the National Interstate Council of State Boards of Cosmetology (NIC);
- personnel from the National Association of Barber Boards of America (NABBA); and,
- personnel from various state agencies including the Department of Finance and Administration and the State Personnel Board.

PEER also attended one Board meeting and observed a Board staff member conducting inspections.

Background

The Legislature established the Barber Board in 1930¹ to regulate schools, barber shops, and individuals engaged in the teaching, demonstration, and practice of barbering. State law authorizes the Barber Board to regulate these professions by making rules and regulations; establishing curricula for schools; issuing licenses; and enforcing laws, rules, and regulations.

As of June 6, 2022, the Barber Board oversees 35 licensed barber schools, 2,099 licensed shops, and 2,896 practitioner licensees.²

Definition of Barbering

Barbering is defined in MISS. CODE ANN. § 73-5-39 (1972). The Barber Board is responsible for regulating the profession of barbering.

MISS. CODE ANN. § 73-5-39 (1972) defines barbering as:

. . . Any one (1) or any combination of the following practices (when done upon the upper part of the human body for cosmetic purposes and not for the treatment of diseases, or physical or mental ailment, and when done for payment either directly or indirectly, or without payment, for the public generally) constitutes the practice of barbering:

Shaving, trimming the beard or cutting the hair by use of any electric instruments, razors or shears;

Giving facial or scalp massages or treatments with oils, creams, lotions or other preparations, either by hand or mechanical devices;

Singeing, shampooing, coloring or dyeing of the hair or beard, or any chemical services as pertains to hair perms, hair color or straightening;

Applying cosmetic preparations, antiseptics, powders, clays or lotions to scalp, face, neck or upper part of the body.

While there is overlap between the professions of barbering and cosmetology in Mississippi, the cosmetology profession is regulated by its own separate board, the Mississippi State Board of Cosmetology.

¹ Chapter 131, *General Laws of 1930*.

² Only includes practitioners whose licenses were valid through January 1, 2022, and beyond. These licenses can be renewed without having to pay additional licensing fees or completing additional steps such as retaking required exams. For more information on issues related to licensing data management, see page 34.

Composition and Duties of the Board

As constituted under MISS. CODE ANN. § 73-5-1 (1972), the Barber Board is composed of five members that serve four-year terms. The Barber Board regulates schools, salons, and individuals by determining school curricula, issuing licenses, and establishing and enforcing its *Rules and Regulations*.

Members

As presently constituted under MISS. CODE ANN. § 73-5-1 (1972), the Barber Board is composed of five members appointed by the Governor with the advice and consent of the Senate. The members serve four-year terms that begin on their date of appointment. One member is appointed from each of the congressional districts as they currently exist, with one Board member appointed from the state at large. To be eligible for appointment as a Barber Board member, the individual must apply and be:

- a practicing barber in the state of Mississippi for a minimum of five years immediately prior to appointment;
- a qualified elector of the state of Mississippi; and,
- a person of good moral character.

MISS. CODE ANN. § 73-5-1 (1972) further provides that no Board member can be connected in any way with any school where barbering is taught.

Exhibit 1 on page 3 lists Barber Board members as of August 2022.

Exhibit 1: Members of the Board of Barber Examiners

Name	City	Congressional District	Initial Appointment Year	Term Ending Date
Michael McBunch (President)	Tupelo	1st	2001	2025
Michael Cothran (Executive Secretary)	Carthage	2nd	2022	2024
Lisa Watkins	Union	3rd	2022	2025
Clelly Farmer	Poplarville	4th	2004	2024 ¹
Bennie Adkins	Philadelphia	At Large	2001	2024

1. Mr. Farmer was re-appointed to the Board after the 2022 Legislative Session, and has not been confirmed by the Senate for his current term.

SOURCE: Mississippi State Board of Barber Examiners website.

Purview

The Barber Board has the legal authority to regulate schools, barber shops, and individuals engaged in the teaching, demonstration, and practice of barbering. Exhibit 2 on page 4 lists the number of licensed schools, salons, and practitioners, by type, as of June 6, 2022.

Exhibit 2: Licensed Schools, Shops, and Practitioners (as of June 6, 2022)

License Type		# of Licenses
Schools		35
Shops		2,099
Practitioners		
	<i>Barbers</i>	2,756
	<i>Instructors (Barbering)</i>	140
	Total Practitioners	2,896

SOURCE: PEER analysis of data provided by the Mississippi State Board of Barber Examiners.

Duties

State law authorizes the Barber Board to regulate barbering by making rules and regulations; establishing curricula for schools; issuing licenses; and enforcing laws, rules, and regulations. MISS. CODE ANN. § 73-5-7 (1972) requires that any rules that the Board issues relative to sanitation must first have the written approval of the Board of Health to ensure that Barber Board's sanitation rules and regulations are consistent with the Board of Health's guidelines.

The Barber Board carries out its enforcement responsibilities through investigating violations and administering disciplinary actions, including revoking and suspending licenses and imposing fines.

Organization and Staffing

MISS. CODE ANN. § 73-5-3 (1972) authorizes the Board to employ staff members to assist with Board activities. As of June 6, 2022, the Board employs two full-time staff members and three part-time inspectors.

MISS. CODE ANN. § 73-5-3 (1972) authorizes the Board to employ:

- an executive director;
- four inspectors (one from each congressional district);
- a chief inspector; and,
- the necessary personnel to carry out the day-to-day duties of the Barber Board.

According to the Board’s appropriation bill for FY 2023, the Board is authorized to hire up to seven permanent employees, but as of June 6, 2022, employed five permanent employees—two full-time office staff and three part-time inspectors.

An attorney from the Mississippi Office of the Attorney General provides the Board with assistance on legal matters. For example, the attorney attends Board meetings and has assisted the Board in its efforts to make changes to the Board’s *Rules and Regulations*.

Revenues and Expenditures

The Barber Board is a special fund agency supported by funds collected from licensing, inspection, and examination fees as set forth in MISS. CODE ANN. § 73-5-29 (1972). Additionally, the Board is supported by funds for fines collected from disciplinary actions.

The Barber Board is a special fund agency supported by funds collected from licensing, inspection, and examination fees and fines collected for disciplinary actions. Appendix A on page 49 lists fees established in state law. In FY 2022, the Board collected approximately \$254,000 in revenues, and incurred approximately \$295,000 in expenditures. Exhibit 3 on page 5 shows the Board’s revenues, expenditures, and end-of-year cash balances from FYs 2018 through 2022.

Exhibit 3: Barber Board Revenues, Expenditures, and End-of-year Cash Balances for FYs 2018 through 2022

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Annual Appropriation	\$290,111	\$280,935	\$282,959	\$296,809	\$298,463
Revenues	\$278,059	\$292,246	\$305,658	\$284,300	\$254,155
Expenditures	\$286,533	\$280,621	\$256,014	\$252,090	\$294,943
Salaries, Wages, and Fringe Benefits	\$145,213	\$145,087	\$143,449	\$140,651	\$173,856
Travel	\$82,384	\$80,180	\$56,200	\$44,825	\$58,592
Contractual Services	\$41,330	\$46,636	\$46,763	\$54,525	\$52,948
Commodities	\$16,746	\$8,718	\$9,602	\$12,089	\$9,547
Capital Outlay/Equipment	\$860	-	-	-	-
Net Revenue*	(\$8,474)	\$11,625	\$49,644	\$32,210	(\$40,788)
Beginning Cash Balance	\$13,818	\$1,298	\$12,923	\$63,050	\$95,422
Ending Cash Balance ¹	\$5,344	\$12,923	\$62,567	\$95,260	\$54,634

* Values within parentheses indicate loss.

1. Fiscal year beginning cash balances may differ from previous fiscal year ending balances due to the timing of expenditures in relation to budgetary deadlines (i.e., lapse payments).

SOURCE: PEER analysis of budget requests and appropriation bills for the Mississippi Board of Barber Examiners.

Need to Regulate Barbering and Related Occupations

Risk factors associated with the practice of barbering create a need for state government to protect the public. The Barber Board, if it fulfills its regulatory functions properly, should diminish the profession's risk to the public.

The nature of the practice of barbering presents a risk to the public if practitioners are not properly trained and regulated. Risks associated with the barbering profession fall into two major categories:

All states regulate the practice of barbering.

- transmission of communicable diseases and infection; and,
- physical harm resulting from improper use of equipment and products.

Because of the seriousness of these health and safety risks, all states regulate the practice of barbering.

Transmission of Communicable Diseases and Infections

Because barbering involves physical contact between practitioner and client and the use of the same equipment on multiple clients (e.g., combs, scissors), there is a risk of transmitting the following types of communicable diseases and infections:

- viral infections such as HIV, hepatitis B and C, and warts; and,
- bacterial infections such as staphylococcus, streptococcus, and pseudomonas.

State regulatory boards should attempt to address these risks by developing sanitation rules and regulations such as procedures for handling blood spills and disinfecting work surfaces, instruments, materials, and supplies. The Barber Board attempts to ensure adherence to sanitation rules and regulations by requiring their inclusion in barber school curricula, testing applicants' knowledge of these rules during the licensing process, and conducting inspections of shops to ensure that practitioners are adhering to the rules in practice.

Physical Harm

The barbering industry uses a wide variety of chemicals and tools (e.g., razors, scissors, perm chemicals) that could result in physical harm to both the practitioner and client. Potentially harmful chemicals are used in products for hair coloring, lightening, waving, and relaxing. If used improperly, these chemicals can cause hair damage and loss as well as chemical burns to the skin. The fumes from some of these products can cause headaches and respiratory disorders. Further, individuals can be allergic to chemicals used in hair and skin care products, which is why many manufacturers of these products recommend skin patch testing of the product on the client prior to full application.

Issues with Regulatory Activities

This chapter discusses issues regarding:

- licensure requirements;
- the examination process;
- exam data and transparency;
- the enforcement process; and,
- oversight regarding *United States v. Kelley*.

Issues regarding Licensure Requirements

Mississippi has more restrictive prerequisites to qualify for licensure testing as a barber than 40 states. While the new universal licensing law has made the licensing process more streamlined and effective for out-of-state transfers, it has also created an imbalance in the licensing requirements between in-state and out-of-state applicants, resulting in a competitive disadvantage for Mississippi residents. Further, age and experience requirements defined in the Board's *Rules and Regulations* conflict with those required by statute.

Universal Licensing

Recent changes to Mississippi law have created universal professional licensing, which allows out-of-state applicants with a year of licensed experience in another state to receive a Mississippi professional license without needing to satisfy any additional requirements from any Mississippi licensing board, such as additional education hours, re-testing, or other requirements that were not mandatory for their initial licensure, with the exception of the state laws exams that are also required by the Board for in-state applicants.

H.B. 1263 (2021 Regular Session) took effect on July 1, 2021. It created a universal professional licensing standard for all applicants seeking a professional license in Mississippi. If a barber is in good standing in another state, he or she may apply for a Mississippi license without having to satisfy any additional requirements (e.g., completing additional education hours, re-testing for licensure).³

With this change, Mississippi residents seeking a license from the Barber Board must meet different requirements for licensing than out-of-state residents, including the requirements that they be able to read, write, and speak English.

³ All applicants for Mississippi licensure, whether from another state or Mississippi, must pass the state laws exam.

Mississippi's Licensure Requirements

To determine eligibility for barber and barber instructor licensure, the Barber Board refers to MISS. CODE ANN. § 73-5-1 (1972) et seq., the Barber Board's *Rules and Regulations*, and the licensure application form. According to these documents, a candidate must meet the following requirements:

- have a high school education or its equivalent and/or have passed the ability-to-benefit examinations approved by the U.S. Department of Education;
- be 18 years of age or older;
- be of good moral character and temperate habits;
- complete 1,500 hours at a barbering school approved by the Barber Board; and,
- take in person and pass a theory exam created by NIC, a state laws exam, and a practical exam.⁴

A candidate for barber instructor licensure must meet the following requirements:

- be 21 years of age or older;
- hold an active barber license;
- complete a 600-hour instructor program in a board-licensed barber school if they have two or more years of experience, or a 1,000-hour instructor program if they have less than two years of experience; and,
- take in person and pass a National Interstate Council of State Boards of Cosmetology (NIC) theory exam and a practical exam.

Issues with Barber Instructor Age and Language Requirement

The Board's statutes do not state an age or English fluency requirement to qualify for barber licensure. The Board's *Rules and Regulations* also do not state an age requirement. However, the Board requires that applicants be 18 years of age and fluent in English to take the licensure exams.

The Board's testing application currently states that applicants must be 18 years of age to qualify for examination and licensure, but this requirement does not match the statute or the Board's *Rules and Regulations*. Neither the *Rules and Regulations* nor statute lists an age requirement for barber licensure. Additionally, the Board's *Rules and Regulations* requires that applicants be able to read, write, and speak English, even though the statute does not list this requirement.

Conflicting information between the statute, *Rules and Regulations*, and actual enforcement could create confusion about the requirements for aspiring practitioners and the general public. It would be prudent for the Board to enforce only requirements that are expressly defined by statute or the Board's *Rules and Regulations*. Additionally, it would be prudent for all requirements to be present in both statute and the Board's *Rules and Regulations* to avoid confusion.

⁴ The Barber Board administers theory tests created by NIC. The NIC creates theory tests for 35 states including Mississippi.

Further, enforcing additional requirements that set a higher standard than that set out in statute creates a barrier of entry that places an undue burden on applicants.

For example, in order to uphold the English language requirement, the Board only offers the NIC theory test in English. However, NIC offers its theory test in English, Spanish, Vietnamese, and Korean, and plans to add 10 new languages in the near future. Requiring applicants to take the test in English could place an undue burden on those who have the knowledge to pass the test but lack English fluency.

Issues with Barber Instructor Age and School Hours Requirement

Among other requirements, MISS. CODE ANN § 73-5-8 (1972) requires candidates applying for barber instructor licensure to:

- be 18 years of age or older; and,
- complete 600 hours of barber instructor training (if they have two years of experience) or 1,000 hours of barber instructor training (if they have less than two years of experience).

The Board's *Rules and Regulations* contradict state law by requiring candidates:

- be 21 years of age or older; and,
- complete 600 hours of barber instructor training.

Statute requires applicants for barber instructor licensure to be 18 years old, but the Board's *Rules and Regulations* require applicants to be 21 years old. While statute requires more hours of barber instructor training for candidates with less than two years of experience, the *Rules and Regulations* do not list the same requirement. The *Rules and Regulations* are in violation of state law. This potentially renders them unenforceable.

Apprenticeships

There are 24 states that allow barber license applicants to receive their training through apprenticeships in lieu of schooling. These states typically offer the option to earn a set number of school hours to qualify for licensure, with the option to replace those school hours with double the number of apprenticeship hours. For example, in the state of Alabama, a person seeking a license in barbering may receive their training by completing 1,000 school hours, or by completing 2,000 hours of apprenticeship within a 3-year period. For more information on licensing requirements for barbering in all 50 states and the District of Columbia, please see Appendix B on page 50.

Twenty-four states offer apprenticeship as an alternative to schooling for qualifying for licensure, but Mississippi does not. As a result, it can be more difficult and cost-prohibitive to earn a license from the Barber Board than to do so in some other states.

In some instances, it could be easier and more cost-effective for a Mississippi resident to move to Alabama (or another state with similar laws), earn their license through an apprenticeship, and move back to Mississippi to get licensed through universal licensing, than to attempt to earn a Mississippi license through the in-state licensing standards.

Apprentice training can have multiple benefits for in-state residents. First, apprenticeships could benefit low-income residents who may not be able to stop working to go to school or be able to afford school. For example, one barber school in the state offers a 20- to 30-hour-per-week course

load that costs students over \$19,000 for tuition, registration, books, and barber kit. Though the schedule does allow some opportunity for students to have time to work outside of school, the cost of the program could still ultimately be prohibitive for some license seekers.

Additionally, apprenticeship could reduce risk to practitioners. According to Barber Board inspectors, one of the top violations for which shops and practitioners were fined was practicing without a license and allowing an unlicensed practitioner to work. Creating an apprenticeship program could allow these shops an opportunity to allow unlicensed practitioners to practice without violating statute or the Board’s *Rules and Regulations*. An apprenticeship program overseen and approved by the Board could decrease the financial burden on practitioners, improve the health and safety of consumers by providing oversight to unlicensed practitioners, and give each of those same practitioners an opportunity to earn his or her license.

Requirements in Comparison to Other States

Mississippi’s standards of eligibility for a person to sit for barber licensure exams, 18 years of age and a high school diploma or its equivalent, are more restrictive prerequisites than four out of five of Mississippi’s nearby states. Exhibit 4 on page 10 shows these requirements for Mississippi’s nearby states.

Exhibit 4: Age and Education Prerequisite Requirements for Licensing in Mississippi’s Nearby States

State	Governing Board	Age Prerequisite (years)	Education Prerequisite (grade)
Mississippi	Mississippi State Board of Barber Examiners	18	12
Alabama	Alabama Board of Cosmetology and Barbering	16	10
Arkansas	Arkansas State Board of Barber Examiners	16 ½	8
Georgia	Georgia State Board of Cosmetology and Barbers	16	12
Louisiana	Louisiana Board of Barber Examiners	18	12
Tennessee	State Board of Cosmetology and Barber Examiners	16	None ¹

1. A Tennessee chancery court enjoined the Tennessee Board of Cosmetology & Barber Examiners from enforcing the statutory requirement of a 12th grade education or its equivalent to qualify for licensure in August 2020, so there is currently no prerequisite education requirement for licensure.

SOURCE: PEER analysis of nationwide statutes governing barber licensing.

At 18 years, the age prerequisite is also higher than any similar requirements in 40 states, including 11 in which there is no minimum age requirement. The education requirement of a high school

degree or its equivalent is higher than the minimum education requirement in 35 states, including 15 states in which there is no such requirement.

The Board's prerequisite requirements for licensure, as they are enforced, place an increased burden on aspiring practitioners in Mississippi, and may place them at a competitive disadvantage compared to out-of-state transfers who utilize universal licensing. It could be more prudent for a resident of Mississippi who does not meet these requirements to leave the state for a period of time to earn his or her license and return through universal licensing than risk being denied licensure due to age or a lack of education. It may also encourage them to earn their license in another state and never return, or to attempt to practice the profession without a license. The current requirements, especially with the implementation of the new universal licensing law, have created a barrier that disincentivizes people from receiving their initial license from Mississippi.

Issues regarding the Examination Process

The Board's exam practices do not effectively evaluate a candidate's preparedness for licensure as a barber or barber instructor. Additionally, the Board only offers its exams in a written format, despite the exams being available in an electronic format, and requires that candidates bring two live models for the practical exam. These factors could reduce the exams' accessibility and could hinder candidates' success.

Barber License Exam Requirements

Candidates for licensure as a barber are required to complete 1,500 school hours in a barber program at a Board-licensed barber school. To apply for the examination, the candidate must provide the Board with a completed application form, two three-by-five-inch signed photographs of himself or herself, and \$100. If the candidate is a cosmetologist, he or she is required to complete only 600 school hours, and a copy of an active cosmetology license must be submitted.

Each candidate must take and pass three exams with a score of 70 or above to pass and qualify for barber licensure. The three exams include:

- **Written theory exam:** created by NIC and graded by testing company Prometric, which evaluates candidates' knowledge of the following:
 - scientific concepts (e.g., sanitation, anatomy);
 - barber equipment (e.g., chair, clippers);
 - hair care services (e.g., procedures for chemical services and haircutting); and,
 - facial hair and skin care services (e.g., principles and procedures for shaving and facials);
- **Mississippi state laws exam:** a 10-question exam pertaining to the Barber Board and the practice of barbering in Mississippi. The questions for this exam were created by the Board, and the exam is graded by NIC and Prometric; and,
- **Practical exam:** administered and graded by Board members and evaluates candidates' ability to perform services for both male and female clients. Candidates are required to have a live male and female model on which they can perform their services for the

practical exam. Candidates must also be able to orally answer questions pertaining to barbering skills, sanitation, and state laws if asked by the board member proctoring.

Barber Instructor License Exam Requirements

Candidates for barber instructor licensure are required to complete 600 school hours in an instructor program at a Board-licensed barber school if they have over two years of experience as a barber and 1,000 school hours in an instructor program if they have less than two years of experience. To apply for examination, the candidate must provide the Board with a completed application form, two three-by-five-inch signed photographs of himself or herself, and \$105.

Each candidate for licensure as a barber instructor must take and pass the following two exams with a score of 75 or above to qualify for licensure:

- **Written theory exam:** Created by NIC, this exam evaluates candidates' knowledge of the following:
 - instructional planning (e.g., developing syllabus, lesson plans);
 - instructional methods (e.g., determining appropriate instruction method, recognizing obstacles to learning); and,
 - classroom management (e.g., maintaining a safe practical learning environment, understanding an instructor's responsibility to advise learners).
- **Practical exam:** Administered and graded by Board members, this exam evaluates candidates' ability to provide instruction on barbering practices and principles.

Candidates for licensure have three attempts to pass the exam before being required to receive more school hours. Candidates must retake exams and portions of the practical that they failed (e.g., NIC theory exam, practical exam – men's shave). If after three tries the candidate has still not passed all exams, they are required to take 60 hours of approved training in each subject failed before retaking the examination. Candidates must pay \$55 to the Board for each retake attempt.

The Board typically holds exams 10 times per year, on the Monday following the Board's regular meetings. There are typically no exam dates held in June or July. Additional exam dates are held at prisons that offer barber training for incarcerated candidates for licensure. In FY 2022, Marshall County Correctional Facility was the only prison with a licensed barber school that graduated candidates for licensure.

Issues with State Laws Exam

The Board's 10-question state laws exam does not effectively evaluate a candidate's knowledge of Mississippi's laws governing barbers.

The Board should ensure that its examination practices fairly test the appropriate knowledge, skills, and abilities that candidates will need to have as licensees of the Board. The Board should therefore reasonably be expected to have accurate, relevant test questions on its examinations.

However, the Board's state laws exam lacks content validity, as six of the ten total questions do not ask valid, job-related questions. The exam includes four questions that ask candidates about state laws that are only applicable to individuals prior to taking the exam, rather than laws pertaining to how they would operate as licensed barbers. For example, one question asks what prerequisites an applicant must satisfy in order to practice barbering, despite the fact that the candidate would

already satisfy these prerequisites if they are actively sitting for the exam. Another asks what a person must send to the Board to be registered to take the exam, which are requirements the candidate would have already satisfied before sitting for the exam. This question also contains inaccurate information, as the dollar value for the fee in the correct option (\$90) has not been correct since the statute changed in 2010.

Additionally, for three of its 10 questions, the correct answers are not options on the exam. For example, a question pertaining to the fine for a barber shop that employs an unlicensed barber does not contain an option that has the correct answer (\$500), and instead states that the correct answer is \$150. This has not been the correct fine for this violation since a change in state law in 2010.

The Board has failed to perform its due diligence to ensure that all information on its state laws test is accurate, current, and relevant, and has failed to communicate changes in state law to the proper entities so changes could be made. The failure to perform due diligence on the state laws test has led to an inaccurate test that is content-valid. Therefore, the exam does not effectively measure the preparedness for licensure of candidates.

The exam's lack of validity could prevent a qualified person from passing and receiving a license. Conversely, the exam could allow a person who does not have the requisite knowledge to continue through the licensure process.

Issues with Validity of the Practical Exam

The Barber Board lacks clear standards for grading (e.g., a rubric) that detail exactly what is expected of candidates in the performance of practical skills. Also, the Board has not provided its members with the training necessary for the proper administration and grading of practical exams.

The Board lacks detailed scoring criteria for grading the practical exam.

The Board should have clear standards for determining whether candidates pass or fail the practical exam. Such standards should include detailed scoring criteria and training for proctors.

An example of a Board with clear standards in the grading of a practical exam is the Mississippi State Board of Cosmetology (MSBC). The practical exam scoring sheet lays out detailed descriptions of the grading criteria, including actions candidates should perform, and a point value for each of the actions. See Appendix C on page 55 for the practical grading sheet used by the Barber Board and Appendix D on page 56 for the practical grading sheet used by MSBC.

Board members proctor the exam but do not receive any training on proper administration of the exam.

Barber Board members lack proper training and rely on their own experience and grading criteria to determine the success of candidates. As a result, grading can be inconsistent and subjective. For example, one Board member stated that it is impossible to earn a 100% grade from them on the practical exam, even if all

sections of the test are technically performed correctly, simply because it is not possible for someone to be perfect. The Board also does not communicate to candidates or schools the reasoning behind grades for practical exams and does not make the practical exam grading sheets, with notes from Board members, available for review by schools or candidates.

Additionally, the Board's administration of the practical exam spreads the Board members too thin, which does not allow them to effectively monitor each candidate's performance. Board members can be responsible for proctoring six candidates at once, and must walk up and down a line of barber chairs to observe all candidates. In this setup, the Board member's back is frequently turned to a number of candidates, especially if the Board member takes any time to focus on one particular candidate's performance. It is impossible for a person to effectively observe each of the candidates as closely as would be appropriate to properly offer an assessment and grade.

The lack of training for Board members or clearly defined grading criteria in the practical exam creates the opportunity for subjective and inconsistent test administration and grading. Further, the lack of content validity could prevent a qualified person from passing or could allow a person who has not demonstrated the necessary skills to receive a license.

The lack of grading transparency also makes it difficult for schools and candidates to know what they must improve on in order to succeed on the practical exam.

Issues with Accessibility of Exams

Two of the Board's exam requirements reduce the exams' accessibility and could hinder candidate success:

- The Board only offers its exams in physical, written form, despite the tests being available in an electronic format.
- The Board requires that candidates bring two live models for the practical exam.

Offering the exam in an electronic format would allow for the test to be administered in multiple locations, such as testing centers and community colleges, and would also allow for faster reporting of test results to candidates, who currently must wait at least two weeks to receive their results.

In FY 2022, 27 of the 200 candidates who took the practical exam failed because they did not bring one or both live models.

Requiring candidates to bring two live models for the practical exam also creates barriers to candidate success. If candidates do not have one or both live models present for the exam, and cannot find a willing individual on the campus where the examination is taking place, then they fail the practical exam

automatically and must retake that portion at another testing date. In FY 2022, 27 of the 200 candidates who took the practical exam failed because they did not bring one or both models. The Board has begun to consider allowing candidates to use a mannequin in lieu of a female model but has not implemented a policy yet and has no intention of doing the same in lieu of a male model.

MSBC could serve as an example of an entity that offers more accessibility in terms of its examinations. Required exams are administered online in multiple locations across the state. The practical exam is proctored by third-party contractors and allows for the use of mannequins instead of live models to demonstrate necessary skills.

Issues regarding Exam Data and Transparency

In FY 2022, 39% of candidates' attempts to pass the required licensure exams resulted in grades sufficient for barber or barber instructor licensure. There was a wide range of success depending on the school a candidate attended; however, the Board does not compile or share the data required to evaluate student success trends. This limits transparency and inhibits a school's ability to assess its own performance. Further, the Board lacks regulations to address underperforming schools that fail to prepare their students for the licensure exams.

As described on pages 11 and 12, candidates must take and pass three exams to qualify for licensure as a barber and two exams to qualify for licensure as a barber instructor.

For FY 2022, candidates tested for licensure as a barber or barber instructor 394 times.⁵ Of those attempts to pass the exams, 155 (39%) resulted in candidates passing all required tests for barber or barber instructor licensure. Of the 32 barber schools with students who tested for licensure in FY 2022, seven (22%) had a passing rate of 70% or greater, and 23 of 32 schools (72%) had a passing rate of 50% or lower. PEER notes that of the 32 barber schools: five were operated by public community colleges, one was operated by a county correctional facility, and 26 were operated by private entities.

See Exhibit 5 on page 15 for a distribution of school passing rates. For a full list of passing rates by school, see Appendix E on page 57.

Exhibit 5: FY 2022 Distribution of School Passing Rates

FY 2022 Exam Pass Rate	Number of Schools	Student Attempts Included
0%	6	18
1-10%	0	0
11-25%	5	91
26-50%	12	194
51-75%	4	53
76-90%	1	10
90-100%	4	28
Total	32	394

SOURCE: PEER analysis of data provided by the Mississippi State Board of Barber Examiners.

⁵ These include instances where a candidate must retake any exam to qualify for licensure, and pay the required fee associated with registering for testing. It does not include instances where a candidate paid the required testing fee but did not show up on the day to take the exams.

These results suggest that multiple schools' curricula or instruction might not be aligned with the core competencies of the barbering profession. Although the Board has the authority to approve a school's license to operate and to inspect schools, the Board's regulations do not address how the Board should handle underperforming schools, or even define what is considered an underperforming school. Further, the Board does not report comprehensive exam data to the schools, which limits the schools' abilities to assess their own performance in preparing students for licensure. The Board also does not make this data available to the public.

The Board's regulations do not address how the Board should handle underperforming schools or define what is considered an underperforming school.

Currently, nine Board-licensed barber schools are eligible to offer students Title IV federal financial aid. Schools must apply for accreditation in order to be able to offer this kind of financial aid, and in order to receive accreditation, must have evidence of a certain level of student success. In FY 2022, six of the nine Board-licensed schools that offer Title IV federal financial aid had candidate passing rates lower than 50%. Without accurate data from the Board regarding exams and performance, schools could continue to underperform and be at risk of losing their Title IV accreditation.

MISS. CODE ANN. § 73-5-7 (1972) states that the Board shall have the authority to establish rules and regulations governing schools of barbering in the state except those operated by a state institution of higher learning or by a public community or junior college. The Board shall have further authority to establish the curriculum for such regulated schools of barbering in this state.

While the Board has its *Rules and Regulations* to govern schools, it lacks any required monitoring of school performance or enforcement activities related to underperforming schools.

The lack of regulations to address underperforming schools could allow schools to continue operating even if they are not adequately preparing their students for licensure exams. Further, students could be investing their money into an education that might not align with the competencies of the barbering profession.

The Board's lack of regulations for underperforming schools could allow schools to continue operating despite not preparing students for licensure exams.

The lack of collecting and reporting of school exam data limits transparency and inhibits the schools' ability to assess their own performance. Further, it also limits potential students' ability to determine if a school is their best option to prepare them for a career as a barber.

Issues regarding the Enforcement Process

In FY 2022, the Board's inspectors only conducted 191 inspections of the 2,134 barber shops and schools licensed by the Board. Additionally, the Board lacks a uniform process for conducting inspections and imposing fines for violations. The Board's *Rules and Regulations* contains deficiencies, such as undefined violations and/or corresponding penalty matrix, and a poorly defined adjudication process, that can limit the Board's enforcement capabilities.

The Board has the authority to hire seven permanent staff. The Board uses four of these employee PINs for part-time inspectors, with one serving in a supervisory chief inspector role, and the other

three responsible for inspections in three territories of the state. The workload for inspectors includes regular inspections of barber shops, inspections of new barber shops which need approval before opening, and investigating complaints made to the Board. The chief inspector is responsible for delegating complaint investigations, performing complaint investigations, and compiling documentation from all inspections. Under the current structure, each inspector is allowed to work a maximum of 60 hours per month, or approximately 15 hours per week. As of August 18, 2022, the employee PIN for the southern territory inspector is vacant.

According to data provided by the Barber Board, as of June 6, 2022, there are 2,134 barber shops and schools in the state of Mississippi for which the Board is responsible for providing oversight (e.g., conducting inspections).

Exhibit 6 on page 18 provides a map of the state's licensed barber shops and schools.

Issues with the Number of Completed Inspections

The Board and its staff all stated that they expect all shops and schools to be inspected once or twice per year. This standard has not been met by the Board.

Based on analysis of data provided by the Barber Board, inspectors only conducted 191 inspections of the 2,134 barber shops and schools licensed by the Board in FY 2022, which creates the potential for inconsistent operations and sanitation standards in barber shops and schools across the state. If the Board's inspectors maintain that pace year after year, it

would take the Board 12 years to complete one inspection at every shop and school in the state, assuming they never visit the same shop twice. While there is not a statutory mandate nor a requirement detailed in the *Board's Rules and Regulations* for how frequently inspections should occur, the Board and its staff all stated that they expect all shops and schools to be inspected once or twice per year. This standard has not been met by the Board, and it would be reasonable to assume that more inspections need to be completed per year than past performance shows in order to ensure the health and safety of the public in barber shops and schools.

MISS. CODE ANN. § 73-5-7 (1972) gives the Barber Board and its designated staff the authority to "enter upon and inspect any barbershop or barber school at any time during business hours." It also directs the Board to "adopt rules and regulations which establish a procedure for the processing and investigation of complaints filed with the board," and "keep records of all complaints, and such records shall indicate the action taken on the complaints."

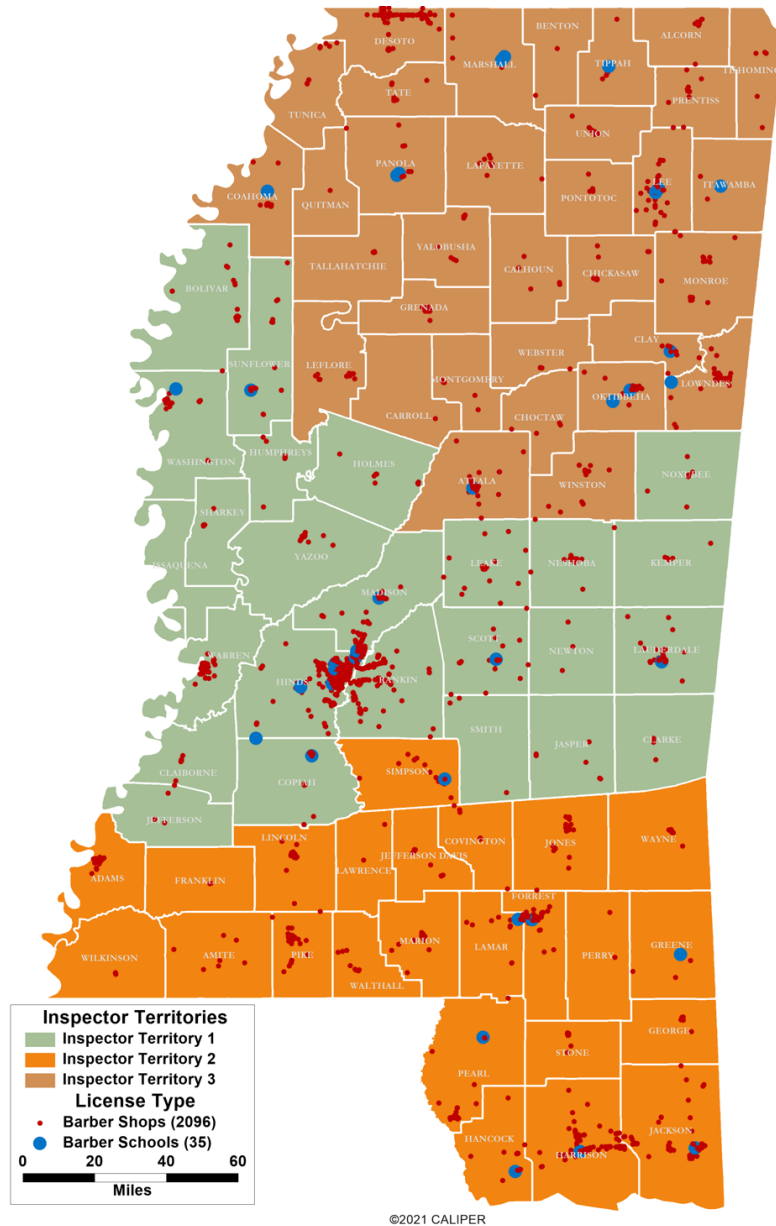
PEER determined that the following key factors contribute to the Board's low number of completed inspections:

- The Board is authorized to employ three part-time inspectors and one chief inspector who are responsible for conducting all inspections statewide. In FY 2022, the board employed two part-time inspectors and one chief inspector. These part-time staff work 15 hours per week or 60 hours per month, and these hours include travel time to and from shops and schools.
- The Board lacks an efficient method of scheduling inspections of shops and schools. The current approach is to prioritize inspections of new shops and schools, and then inspect

shops in the surrounding area. The result is that some shops are inspected multiple times within a year, while others are not inspected.

PEER notes that each inspector completed an average of 1.3 inspections per week. If each inspector had completed an average of three to five one-hour inspections per week (a reasonable expectation given allotted work hours for part-time employees and driving time), the Board would have completed between 450 and 750 inspections in FY 2022.

Exhibit 6: Map of Barber Board Inspector Territories, Shops, and Schools



SOURCE: PEER analysis of information provided by the Mississippi State Board of Barber Examiners.

Issues with Inconsistent Inspection Process

PEER observed a Board inspector inconsistently conducting inspections of barber shops and inconsistently applying fines for violations. Such inconsistencies could result in unequal treatment of licensees.

To determine whether inspectors follow a consistent process for conducting inspections, PEER observed an inspector perform nine inspections in the Jackson area. The inspector routinely checked that shops and barbers held up-to-date licenses, but his inspection of the shops themselves varied greatly. In one inspection, the inspector examined every

drawer of each workstation, taking an hour to complete the inspection. In another, the inspection lasted for a total of three minutes, with the inspector only checking the owner's license and ensuring that the bathroom had running water. Also, in some shops, he would strictly adhere to the Board's rules in applying fines, and in other shops, he gave warnings in lieu of fines or told the owners that he would return at a later date to complete the inspection before applying fines.

Board inspectors should strictly follow a standard process to prevent arbitrary and capricious behavior when performing their duties, in order to provide fair and equal treatment of licensees during the inspection process while ensuring consistent compliance with state laws and the Board's *Rules and Regulations*.

Poorly defined violations and penalties within the Board's *Rules and Regulations*, vague inspection forms that do not detail exactly what should be looked for in an inspection (see Appendix F on page 59), and minimal oversight of inspectors all contribute to inconsistent inspections.

Issues with Enforcement Capabilities

The Board's *Rules and Regulations* contains deficiencies, such as undefined violations and/or corresponding penalty matrix, and a poorly defined adjudication process, that can limit the Board's enforcement capabilities.

The Board's *Rules and Regulations* contains deficiencies, such as undefined violations and/or corresponding penalty matrix, and a poorly defined adjudication process, that can limit the Board's enforcement capabilities.

MISS. CODE ANN. § 73-5-9 (1972) outlaws the practice of barbering and working as a barber instructor without the proper license, and lists out the range of fines for each offense, as follows:

- First offense – A fine of not less than \$25 and not more than \$500;
- Second offense – A fine of not less than \$501 and not more than \$1,000;
- Third and later offenses – Imprisonment for not less than five days and not more than six months in county jail.

MISS. CODE ANN. § 73-5-33 (1972) provides fine amounts for the barbershop owners found employing an unlicensed barber for first and second offenses. It also gives the Board the authority to close unlicensed barber shops.

MISS. CODE ANN. § 73-5-43 (1972) authorizes a fine of not less than \$25 and not more than \$1,000 for the following offenses:

- any acts or threats of violence against any members or employees of the Board;

- obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation;
- practicing or attempting to practice by fraudulent misrepresentation;
- the willful failure to display a certificate of registration as required by MISS. CODE ANN. § 73-5-23; or,
- the use of any room or place for barbering which is also used for residential or business purposes (except for the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, and such commodities as are used or sold in a barbershop) unless a substantial partition of ceiling height separates the portion used for the residence or business purpose from that in which such practice of barbering is carried on.

The *Rules and Regulations* states that “any person, partnership or corporation found to be in violation of these regulations upon a hearing as provided by law shall suffer the suspension of certificate and/or license for such period of time as the Barber Board may decide commensurate with the violation,” and that “the grades used for inspecting all barber shops and barber schools are as follows: A-Excellent B-Fair C-Bad, must be improved.” It does not provide any fine matrix for violations, including those created by statute.

These shortcomings in the Board’s *Rules and Regulations* create a lack of a standard process for practitioners who receive fines, and reduce the capability of the Board to enforce the punishments for violations. The lack of a fine schedule also makes it unclear what practitioners should expect as a fine for their offenses, and allows the opportunity for fines to be levied inconsistently.

Issues with Board Oversight regarding *United States v. Kelley*

Until August 2022, Barber Board members were unaware that the owner of the barber school Trendsetters Barber College had been convicted of fraud despite the fact that the Board’s chief inspector testified in court about the case in 2021. Additionally, upon learning about the case, the Board did not immediately take action to revoke the licenses of the school and its owner. The Board’s delayed action suggests a significant deficiency in the Board’s enforcement capabilities and actions. Also, because the Board is responsible for regularly inspecting barber schools, this fraud case calls into question the quality of the Board’s school inspections.

Mr. Kelley was convicted of two counts of wire fraud in May 2021. Barber Board members were unaware that Mr. Kelley had been convicted until August 18, 2022, over a year later.

Mr. Anthony Kelley, owner of Trendsetters Barber College, was convicted of two counts of wire fraud in May 2021. Mr. Kelley defrauded veterans and the federal government of \$400,000 by offering a fictitious “master barber course” at the cost of \$13,000 per student. Barber Board members were unaware that Mr. Kelley had been convicted despite the fact that the Board’s chief inspector testified in the case.

The chief inspector did not notify the entire Board of his testimony in court, and the Board remained unaware of the conviction until August 18, 2022.

Once the Board learned of Mr. Kelley’s conviction, no immediate action was taken. MISS. CODE ANN. § 73-5-25 (1972) states that the Barber Board “may refuse to issue, suspend definitely or

indefinitely, or revoke any certificate of registration or license” for any one or combination of the following causes:

- conviction of a felony;
- gross malpractice or incompetency;
- continued practice by a person knowingly having an infectious disease;
- advertising or practicing under a trade name or name other than one’s own;
- habitual drunkenness or addiction to drugs; and,
- immoral or unprofessional conduct.

The Board has the authority to revoke Mr. Kelley’s license as well as the school’s license, but as of August 31, 2022, has not done so.

In addition, the Board is responsible for conducting regular inspections of barber schools; however, this fraud case calls into question the quality of these inspections. The *Board’s Rules and Regulations* specify that schools must keep certain records (e.g., curriculum, student attendance), and inspectors have the authority to review such records at any time. It is reasonable to assume that a school inspection should include a detailed review of the schools’ records and ensure that those records comply with statute and Board policies. However, inspectors’ forms for conducting school inspections are primarily focused on the enforcement of sanitation regulations and might not be sufficient to expose fraudulent activities, as in the case of *United States v. Kelley*.

Exhibit 7 on page 22 illustrates the timeline of events pertaining to the *United States v. Kelley* case.

Exhibit 7: Timeline of *United States v. Kelley*

January 6, 2012

- Mr. Kelley assumes ownership of Trendsetters Barber College.

October 2016 to March 2019

- Mr. Kelley offers a “Master Barber” course at the cost of \$13,000, a curriculum not approved by the Barber Board, and enrolls students receiving Veterans Affairs (VA) educational benefits.

October 2018

- Mississippi VA withdraws Trendsetters Barber College’s eligibility to participate in the VA educational benefits program due to discrepancies found in the school’s ability to meet eligibility requirements.

April 22, 2021

- Mr. Kelley is charged with two counts of wire fraud by the U.S. Attorney in the U.S. District Court for the Southern District of Mississippi.

May 20, 2021

- Mr. Kelley accepts a plea agreement and pleads guilty to both counts of wire fraud.

April 24, 2021

- Barber Board chief inspector is subpoenaed to testify in a hearing on *U.S. v. Kelley*.

December 8, 2021

- Trendsetters Barber College, which remains owned and operated by Mr. Kelley, is inspected by a Barber Board inspector. The school is assessed to be in “good” condition and approved for continued operation.

August 17, 2022

- Mr. Kelley is sentenced to serve 366 days in federal prison beginning on October 11, 2022, and is ordered to pay restitution in the sum of \$402,357.14.

August 18, 2022

- The Barber Board Executive Director is reached for comment by a reporter on the status of Mr. Kelley’s license and licenses of the students who completed the fraudulent program. The Executive Director alleged she was not aware of the case and that the Board was not taking action regarding the case or Mr. Kelley’s license.

August 21, 2022

- The Chief Inspector briefs the Board members on the case and informs them of the request for comment by the reporter. The Board discusses revoking Mr. Kelley’s license, but determines that a hearing would be required. However, the Chief inspector suggests that the Board receive official court documents on the case before setting the hearing, so the Board tables the discussion until their October Board meeting.

August 24, 2022

- The Board chairman is quoted in an article stating that he could not discuss details of the case, but that “the board is waiting for everything to be put together” before taking action on Mr. Kelley’s license, or the license for Trendsetters Barber College.

SOURCE: PEER analysis of information provided by the Mississippi State Board of Barber Examiners.

Issues with Financial Management and Internal Controls

This chapter discusses the Barber Board's:

- issues with per diem and travel reimbursements;
- issues with internal controls; and,
- other issues with financial management.

Issues with Per Diem and Travel Reimbursements

In FY 2022, the Barber Board paid per diem, meals, travel, and other expenses for Board members and staff that were not in compliance with state law and DFA travel policies or expenses that demonstrate an inefficient use of the Board's limited resources.

The Department of Finance and Administration's (DFA) *State Travel Policy Rules and Regulations* state that an employee traveling on official state business is expected to exercise the same care incurring expenses as would a prudent person traveling for personal reasons. Travel for business should be conducted at a minimum cost for achieving the purpose of the official travel. PEER determined multiple instances in which the Board did not adhere to these principles.

Issues with Per Diem

MISS. CODE ANN. § 25-3-69 (1972) states:

Unless otherwise provided by law, all officers and employees of state agencies, boards, commissions, departments and institutions authorized by law to receive per diem compensation for each day or fraction thereof occupied with the discharge of official duties shall be entitled to Forty Dollars (\$40.00) per diem compensation.

During FY 2022, Board members requested and received per diem compensation 24 times to travel to Jackson on the Saturday prior to the Board's regularly held Board meetings on Sundays. At \$40 per day, Board members received a total of \$960 in per diem compensation for Saturday travel prior to Board meetings, which does not constitute official Board duties. PEER notes that two Board members in particular constituted the majority of unlawful per diem compensation (21 of the 24 per diem payments).

In FY 2022, the Board paid \$960 to Board members for days in which they performed no official Board duties (i.e., the day before a Board meeting), against state law.

Other Travel Expenses on Days of No Official Board Duties

In addition to per diem, Board members received reimbursements for other expenses including:

- \$2,694 for 22 hotel stays to arrive a day early for the Board meeting; and,
- \$988 in meal reimbursements. Board members claimed the daily maximum of \$41 or \$46 per day for meals the day before the Board meeting on 23 occasions.

Because Board members reported on their travel vouchers that their only purpose of travel was to arrive the day prior to the meeting and did not indicate they were performing the duties of their office or working, their requests for per diem compensation and reimbursement of travel expenses were a matter of convenience rather than necessity and could be seen as an inefficient use of resources.

Issues with Meal Reimbursements

DFA provides guidelines for state agencies regarding reimbursement of employee travel expenses in its *State Travel Policy Rules & Regulations*. Regarding meal allowances, the *State Travel Policy* states:

Officers and employees of the state and political subdivisions shall be reimbursed the actual cost of meals incident to official travel, not to exceed the daily maximums for the specific location of assignment. Section 25-3-41(4) does not require receipts for meal reimbursements; however, DFA recommends that agencies and governing authorities require them to sufficiently document reimbursements. However, it is not necessary for agencies to include these receipts with the Travel Voucher when submitting for reimbursement to the DFA Office of Fiscal Management.

In FY 2022, the Board paid \$1,951 to Board members and staff for meals that could be seen as an inefficient use of the Board resources.

Additionally, DFA policy states that travel cards may not be used for meals, incidentals, room service, and alcoholic beverages, and meal reimbursements are not allowed within the official duty station (i.e., the location of the employee's "regular place of work"⁶).

During FY 2022, Board members and other employees received a total of \$1,951 in meal reimbursements that could be seen as an inefficient use of the Board's resources, as Board members and staff were not reimbursed the actual cost of meals incident to official travel. These include:

- \$988 in meal reimbursements for Board members to arrive a day early for the Board meeting;
- \$702.19 for 34 itemized dinner meals for Board members on days in which they proctor examinations, which typically conclude around noon. All Board members had sufficient time to drive to their personal residences in the afternoon hours, which would preclude them from receiving reimbursement for dinner;
- \$164 in meal reimbursements for a Board inspector. These meals were for four days at the daily maximum of \$41 when the inspector did not have an overnight stay;

⁶ DFA's *State Travel Policy Rules and Regulations* 101-J defines official duty station, or regular place of work, as the city, town, or other location at which the state employee works or performs services on a regular basis as determined by the entity head, which for some Board staff is the central office in Jackson, Mississippi. Travel reimbursements may not be paid from an employee's home to their "regular place of work."

- \$41 for the chief inspector for meals on a day in which he did not perform job duties; and,
- \$55.81 for 11 separate food purchases charged to the chief inspector's state credit card during hotel stays, in addition to already claiming the daily maximum allowed for meals on his travel voucher.

Issues with Documentation of Travel Expenses

In the Mississippi Office of the State Auditor's (OSA) 2018 audit report of the Board, the OSA found multiple instances of the Board reimbursing travel expenses "without sufficient review procedures, documentation, authorization, and receipts." OSA recommended that the Board strengthen its controls over reimbursements.

In FY 2022, the Board reimbursed \$4,518.75 in travel expenses without sufficient documentation, authorization, and receipts.

According to DFA policy, the following rules and regulations apply to all state agencies, including the Board:

- Travel vouchers must be typed or completed in ink and signed by the traveler. Additionally, the form should be completely filled out and signed by the entity head or designee before submitting the form to the State Travel Office and should include a signature that verifies all reimbursed expenses are actual and valid business expenses.
- All travel vouchers must have the original invoices for which reimbursement is claimed. Attached invoices must be submitted for hotel, airfare, airport parking, and other charges in excess of \$10.
- Employees should request that taxes not be assessed when traveling on state business. Also, when payment for in-state lodging is made with the state travel card, sales tax is considered an unauthorized expense and as such should not be placed on the travel card.

PEER reviewed travel reimbursements for FY 2022 and found issues similar to those OSA found for FY 2017. In particular, PEER found:

- \$3,246 in reimbursements without receipts, primarily for hotel stays and some gasoline purchases charged to state-issued credit cards;
- \$609.75 in duplicate credit card payments that the agency paid on March 7, 2022, and again on March 24, 2022;
- \$663 in payments for sales taxes, primarily for hotel stays and to a lesser extent for car rentals;
- four instances of unapproved travel vouchers that lack an authorizing signature;
 - Frequently travel vouchers had only one signature, indicating that the vouchers were not verified by a second approved reviewer.
- incomplete records, including a page of a Board member's travel voucher that the Board staff indicated was lost; and,
- frequent math errors, including one Board member's travel voucher that included the same error three times and was never corrected.

Issues with Mileage Reimbursement

According to DFA's *State Travel Policy Rules and Regulations*, in FY 2022, reimbursement for the use of a personal vehicle for official state business is based on actual miles traveled. Also, MISS. CODE ANN. § 25-3-41 (1972) mandates that employees traveling on official business in their private vehicles be reimbursed at the same rate federal employees are reimbursed for official business. The mileage reimbursement rate for Calendar Year (CY) 2021 was \$0.56 for agencies in which no state-owned vehicles were available, and for CY 2022 is \$0.585. PEER found the following issues with the Board's mileage reimbursements:

In FY 2022, the Board erroneously reimbursed staff at a lower rate for mileage reimbursements than the rate set in state policy.

- The Board's former Executive Director erroneously calculated a portion of the staff's mileage reimbursements based on a lower rate (\$0.16 or \$0.18) that applies to agencies that have state-owned vehicles available for official travel. The Barber Board does not have state-owned vehicles and therefore applied the incorrect rate to mileage reimbursements.

Staff requested and received reimbursement for mileage in excess of the actual miles traveled. Specifically, Board staff travel approximately one mile to and from the bank approximately three times per week; however, staff claims to have traveled 10 miles for each bank visit.

Issues with Other Travel-related Expenses

As referenced on page 24, travel reimbursements may not be paid for travel from an employee's home to his or her official duty station. The Barber Board maintains its central office in Jackson, and Jackson serves as the official duty station of central office staff. Office personnel received \$582.76 in mileage reimbursements primarily to attend Sunday Board meetings in Jackson and, on a more limited basis, to work on Saturdays in Jackson.

Issues with Accounting of Work Activities and Associated Travel

Approximately 25% of the Board's travel expenses for FY 2022 can be attributed to the Board's part-time chief inspector, who performs regular administrative duties in Jackson but lives in another geographical region in the state. While not a violation of state law, paying this employee to regularly travel to and from Jackson could represent an inefficient use of resources.

The Board employs a part-time chief inspector responsible for conducting inspections and investigations across the state, as well as performing administrative duties (e.g., writing and reviewing reports). The inspector's travel expenses totaled 25% of the Board's total travel expenses in FY 2022; therefore, PEER assessed the accounting of the chief inspector's work activities and associated travel. PEER found the following issues:

- Although the chief inspector's administrative duties comprised approximately half of his workload in FY 2022, he does not reside in the Jackson area, which is where the Board office is located. Because he lives in another geographical area of the state (and was reimbursed for mileage for his personal vehicle rather than utilizing a rental car), the Board paid mileage for him to travel between his home and the Board office 27 times to conduct administrative duties. While not a violation of state law because the chief inspector's

“regular place of work” is not expressly defined due to his other work responsibilities across the state, this is an inefficient use of the Board’s limited resources.

- In FY 2022, the chief inspector requested travel reimbursements for working 82 days in the state. He received reimbursement for mileage and meal expenses in the amount of \$7,080.25, along with hotel expenses in the amount of \$6,777.14, which were charged to his state-issued credit card. However, the Board provided minimal documentation to PEER to show the inspector’s work activities for the year. Specifically, the Board provided documentation for the following non-administrative work activities:
 - five shop inspections;
 - eight school inspections (three of which were inspections of schools that were closed); and,
 - two investigations of complaints.

PEER notes that on eight days for which the chief inspector requested travel reimbursement, the travel purpose listed on the reimbursement forms was for travel only or was not stated on the form. In addition, the chief inspector failed to submit two months of activity reports which prevented comparison for another 17 instances (21% of the total).

- In 25 instances (30% of the total), the points of travel on the chief inspector’s travel vouchers conflicted with the information provided on the chief inspector’s activity reports. For example, the chief inspector charged a hotel stay at a Jackson area hotel on May 4, 2022, to the state-issued credit card in the amount of \$104.16; however, this travel voucher and work documentation do not reflect any work performed on May 4.

These findings suggest that the Board lacks prudence in ensuring the most efficient use of the Board’s limited resources.

Issues with Internal Controls

The Barber Board lacks an effective internal control environment, which increases the risk of financial mismanagement (e.g., fraud).

Segregation of Duties

According to the American Institute of Certified Public Accountants (AICPA),⁷ segregation of duties is a type of internal control designed to prevent fraud and error by ensuring that two or more individuals are in charge of separate parts of any given critical function. In other words, more than one person should oversee critical Board functions to avoid a single person committing fraud or error.

⁷ Founded in 1887, the AICPA represents the CPA profession nationally regarding rule-making and standard-setting and serves as an advocate before legislative bodies, public interest groups, and other professional organizations. The AICPA develops standards for audits of private companies and other services by CPAs, provides educational guidance materials to its members, develops and grades the Uniform CPA Examination, and monitors and enforces compliance with the profession’s technical and ethical standards.

Another resource for small Boards, the Technical Division of OSA's document *Segregation of Duties in a Small Office* provides a model of effective segregation of duties, even in an operational environment with only two employees, highlighting that the key element of effective segregation of duties is separating key steps in any process between employees.

For example, strong internal controls for the processing payments received by the Barber Board would have a designated staff member opening the agency's mail and cataloging all payments received (in addition to payments received from walk-ins), with a separate staff member processing these payments (entering the payments into licensees' accounts), providing the appropriate requested service (i.e., issuing a new license), and providing a receipt for all payments received.

When interviewed, Board staff stated that the Board did not have written procedures for the processing of payments and that the agency's current practice is for any available employee to complete any part of the process as time becomes available. While this means it is possible that different employees will complete each part of the payment processing, it is also possible that one employee will complete all aspects of the payment processing.

This lack of defined roles for staff regarding payment processing represents weakness in the agency's internal control environment and could compromise the accuracy and completeness of the Barber Board's accounting records, which could create an opportunity for fraud to occur.

The lack of defined roles for staff regarding payment processing represents weakness in the agency's internal control environment. This could compromise the accuracy and completeness of the Barber Board's accounting records.

Surety Bonds

As highlighted previously, Barber Board is a special fund agency deriving its funds from licensee payments. To help protect licensees from fraud and financial mismanagement of their payments, the Legislature, under MISS. CODE ANN. § 73-5-3 (1972) requires Barber Board to:

...execute and file with the Secretary of State a bond in the sum of Ten Thousand Dollars (\$10,000.00) conditioned according to law, the bond to be made in a surety company authorized to do business in this state and approved by the Governor. The premium for the bond shall be paid out of the funds in the board's special fund in the State Treasury.

The board shall require such of its employees as it may consider necessary to make bond and file same with the Secretary of State in such sums as it may consider necessary to protect the interests of the barbers of the State of Mississippi and require the faithful performance of their duties.

During OSA's financial audit of the Barber Board for FY 2017, OSA interpreted the requirements of this section to mean that the Barber Board should have the following coverages:

- the stated \$10,000 in surety bond coverage for the agency; and,
- blanket surety coverage for all other employees and Board members.

OSA found the Board to be in compliance with the first component and not in compliance with the second.

In its response to OSA's report, the Barber Board stated that it would begin bonding all full-time employees, part-time employees, and Board members. When interviewed, Barber Board staff

stated that this policy was still the Board's current policy. This represents the implementation of strong internal control policies and procedures related to protection from financial fraud and mismanagement of agency resources.

As of September 14, 2022, the Board did have the \$10,000 coverage expressly required under MISS. CODE ANN. § 73-5-3 (1972),⁸ but only had surety bond coverage for three of its four remaining staff members and two of its five Board members. With the exception of one Board member who was appointed in June 2022, all individuals without coverage have been affiliated with the Board and its staff for over one year. Additionally, PEER found that the Board failed to file the policies they had successfully acquired with the Secretary of State's office, as is required under MISS. CODE ANN. § 73-5-3 (1972).

The Barber Board's failure to execute all surety bond coverage required by its own policies and procedures, and its failure to file all existing surety bond policies with the Secretary of State's office, represent a failure in the Board's internal control policies and procedures. These failures increase the risk that financial fraud or misappropriation of agency funds may financially impact licensees of the Board and reduce transparency regarding the operations of the Board.

Other Issues with Financial Management

The Barber Board's imprudence in its financial management has negatively impacted the Board and its licensees.

Employee Retirement Payments

The Barber Board's lack of knowledge and expertise related to required retirement contributions cost the Board and its licensees \$19,970.71 in delinquent interest payments.

As a state agency, the Barber Board is a member of PERS and is required to make retirement benefit payments for eligible employees.

Eligibility for membership in PERS is codified under MISS. CODE ANN. § 25-11-109 (1972) and regulated through Mississippi PERS Board Regulation 36.⁹ Generally, for a state agency employee (such as an employee of the Barber Board) to receive service credit for any month, her or she must meet the following requirement:

A member must be employed in a position in which the employee works the equivalent of at least half the normal workload for the position and earns at least half the normal compensation for the position in any month.

However, during fieldwork for this review, PEER determined that for the period from July 1, 2001, through November 30, 2021, the Barber Board failed to make all required retirement contributions for one of its long-time employees.

While working for the Barber Board, the employee worked 15 hours per week, which would not qualify the employee for PERS service credit and would not require the Board to make retirement

⁸ The Barber Board's surety bond coverage for its Executive Director, Sharon White, can be considered to satisfy this particular part of the statute.

⁹ PERS Board regulations are found in Part 210 of the *Mississippi Administrative Code*.

contribution payments. However, while employed with the Barber Board, the employee was also working full-time at another PERS-covered agency.

According to Title 27, Part 210, Chapter 36, Section 105, of the *Mississippi Administrative Code*, if a member is employed in two covered positions at the same time, then the following rule applies:

Any member in a covered position, as defined by PERS laws and regulations, who is also employed by another covered agency or political subdivision shall have the earnings of that additional employment reported to PERS provided the employee occupies a position that would otherwise be covered if the employee worked and was paid for a sufficient number of hours as set forth in this regulation. The wages from the second position are reportable to PERS if the second position is independently covered under PERS or if the second position is less than half time, but would otherwise be covered independently if the employee worked the requisite number of hours.

As such, both employee and employer contributions should have been made on any wages earned while employed by the Barber Board.

According to MISS. CODE ANN. § 25-11-123 (6) (1972), the responsibility for delinquent contributions is as follows:

Failure to deduct those contributions shall not relieve the employee and employer from liability thereof. Delinquent employee contributions and any accrued interest shall be the obligation of the employee and delinquent employer contributions and any accrued interest shall be the obligation of the employer. The employer may, in its discretion, elect to pay any or all of the interest on delinquent employee contributions.

Based on the results of a PERS audit, the Barber Board was required to pay interest on delinquent employer contributions totaling \$12,090.67 to PERS by March 16, 2022. In an effort to account for its oversight, the Barber Board also elected to pay \$7,880.04 in interest related to the employee's delinquent contributions. (The employee was responsible for his share of employee contributions to PERS.)

The Barber Board's lack of knowledge and expertise related to employee retirement payments cost the Board and its licensees \$19,970.71 in delinquent interest payments.

Board Office Lease

The Board entered into a five-year lease in October 2011 for office space at its George Street location. In September 2016, the Board entered into a lease extension agreement expiring on October 31, 2021.

The Board might have extended its current lease with terms that are not in the state's best interest (e.g., lowest price) and could have negatively impacted the Board's budget.

State law prohibits an agency from executing a lease prior to the consent of the PPRB. DFA's policies require that agencies submit requests for PPRB approval to DFA's Real Property Management (RPM) Division and include all documentation necessary to validate the lease (e.g., required forms, market rent survey). After approval by the RPM Division, the request is placed on

PPRB's agenda. The PPRB has the authority to approve or deny the lease based on its responsibility to serve the state objectively, economically, and efficiently.

Before the lease expired in October 2021, the Board's former Executive Director failed to secure a new lease for its office space in a timely manner. On November 11, 2021, the Executive Director submitted a letter to DFA requesting the authority to enter into an emergency lease. The letter stated that the Board had only received the new lease on November 1, 2021, and therefore did not have time to submit the lease through the process for approval by the PPRB. The letter further stated that the landlord had health issues and his family members were responsible for handling his business leases, which was the reason for the delay.

On November 16, 2021, the State Fiscal Officer granted a declaration of emergency certificate to the Board, authorizing the Board to lease space on a month-to-month basis for up to one year to give the Board enough time to secure a new lease. The certificate also states, "the delay incident to obtaining competitive bids adversely impacts the interests of the State" and that the Board is authorized to "lease space without having to comply with competitive advertisement requirements." On November 16, 2021, the Board executed a lease with its current building owner.

The Executive Director failed to properly plan for and execute a lease to ensure continued functioning of the office. Even if the landlord delayed the process, it is apparent that the Executive Director did not plan enough time to execute all of the steps that the Board had to take in order to have the lease approved by PPRB before the prior lease expired.

The Board's failure to competitively advertise for office space and secure a lease might have resulted in lease terms that are not in the state's best interest (e.g., lowest price).

PEER notes that the one-year lease agreement in 2021 represented a 19% increase in the rental rate from the prior lease (from \$15,000 per year to \$17,875.59 per year).

Cash Management

As defined under MISS. CODE ANN. § 27-103-103 (2) (1972), the Barber Board is considered a special fund agency because its operations are solely funded through money received from its licensees for various reasons (e.g., license renewal fees, testing fees, fines assessed during inspections). The Barber Board currently accepts licensee payments by personal check, money order, or cashier's check delivered by mail or in person.¹⁰ Strong internal controls should establish policies that ensure that all payments received by mail and in person are deposited into the agency's clearing account and then transferred to the State Treasury in the time prescribed in law.

MISS. CODE ANN. § 7-9-21 (1972) provides guidance to state agencies on the transfer process for public funds through the following requirements:

All state officials shall make a detailed report to the State Fiscal Officer and pay into the State Treasury all public funds, as defined in Section 7-7-1, which are required to be paid into the Treasury. Such funds shall be deposited in the State Treasury by the end of the next business day following the day that such funds are collected, except as provided elsewhere in this section. The State Fiscal Officer and the State Treasurer are authorized to establish clearing accounts in

¹⁰ In response to the COVID-19 pandemic, the Barber Board suspended all in-person payments from March 2020 through May 2022. For more information about this change in operations, see page 36.

the State Treasury as may be necessary to facilitate the transfer of monies to municipalities, counties and other special fund accounts, as provided by law. The detailed report hereinabove required shall be fully satisfied when any revenue-collecting agency on its applications for received warrants has stated the amount of money which it has collected from any source whatsoever without having to supply the names of the taxpayers who had remitted such money. At the request of any state agency, the State Fiscal Officer, with the advice and consent of the State Treasurer, may by regulation provide for other than daily deposits of accounts by that state agency. The State Fiscal Officer, with the advice and consent of the State Treasurer, shall determine the frequency and method of deposit for the agency.

The Barber Board does not have written policies and procedures in place to help mitigate risks associated with depositing licensees' payments or transfer of these funds to the State Treasury.

During OSA's financial audit of the Barber Board for FY 2017, it found that the Board's average deposit rate for May and June 2017 was approximately every six days. OSA recommended Barber Board strengthen its controls over payments received by depositing funds to the State Treasury daily.

Fieldwork conducted during PEER's review of the Barber Board showed that for FY 2022, the Barber Board made deposits approximately every 3 days with only 14 (11%) of the agency's 122 total deposits made in compliance with the two-day requirement outlined in state law. While the Board is closer to being in compliance with state law than it was in FY 2017, the Board should ensure it makes deposits received funds in a timely manner. The untimely depositing and transfer of funds by the Barber Board staff could increase the risk of fraud or mismanagement of licensee-provided funds.

Other Administrative Issues

This chapter discusses:

- issues with records and data management; and,
- issues with the Board's current office location.

Issues with Records and Data Management

The Barber Board's records are insufficient to easily determine basic regulatory information, including the number of active licensees, completed inspections, and the number of candidates who took and passed the licensure exams. Additionally, inspection information is not easily accessible, which decreases efficiency of Board staff. Because of these deficiencies, the Board cannot effectively measure its own performance or report accurate information to its stakeholders.

The Barber Board's records are insufficient to easily determine basic regulatory information, including the number of active licensees, completed inspections, and the number of candidates who took and passed the licensure exams.

PEER requested information from the Board pertaining to its licenses and inspections. The records and data provided to PEER were insufficient to determine basic regulatory information. For example, data pertaining to licenses was poorly organized and included licenses for barbers and instructors that

have not been renewed since as far back as 2007 (even though licenses expire after one year). The Board does not remove a license from its database unless it receives confirmation from a relative that a licensee has passed away. The Board's data also included licenses for shops that are no longer operating. When Board staff learns that a shop has closed, they place the word "CLOSED," "PER OWNER CLOSED," or other similar wording in the shop name data field in their database. As a result, PEER had to manually sort and re-organize the data in order to determine the number of active licenses.

The Board's information is also difficult to access, particularly information related to inspections. Inspectors complete paper forms for barber shop and school inspections and do not enter inspection information into an electronic format. To respond to PEER's request regarding the number of completed inspections, Board staff had to locate hard copies of its completed inspections and provide them to PEER. Further, inspectors are not able to access data in the field while conducting inspections, which leads to inefficiency in conducting their work. If inspectors need to check the validity of a license while on an inspection, they must call the Board office and ask the staff to look up the information. This process can be quite time-consuming, especially if the inspector needs to validate several licenses at once. Further, this distracts office staff from the tasks that they have at hand.

Without organized and accessible information, the Board's staff is limited in its effectiveness and efficiency in accomplishing its regulatory functions. Also, the Board cannot effectively assess its

own performance or report its performance to stakeholders. The following examples demonstrate the impact on the Board:

- **Inability of the Board to measure its own performance regarding inspections:** The Board was unable to easily report to PEER the number of inspections it has conducted or the general findings of those inspections. Therefore, there is no easy way to measure the Board’s performance in conducting inspections.
- **Inaccurate reporting of licensee information:** According to data provided by the Board, the number of licenses the Board regulates is 9,625, but PEER analysis of the data shows the number of licenses currently regulated by the Board is 5,030. This discrepancy of 4,595 licenses can be attributed to poor data management, as closed shops, duplicate licenses, and expired licenses were included in the Board-provided numbers. A comparison of the data provided by the Board and the results of PEER analysis is shown in Exhibit 8 on page 34.

Exhibit 8: License Data Discrepancies

License Type		Board Numbers	PEER Analysis Numbers
Shops		2,953	2,099
Schools		35	35
Practitioners			
	<i>Barbers</i>	6,310	2,756
	<i>Instructors</i>	327	140
	Total Practitioners	6,637	2,896
Total Licenses		9,625	5,030

SOURCE: PEER analysis of data provided by the Mississippi State Board of Barber Examiners.

- **Inability of the Board to report accurate performance information to stakeholders:** The Board reports data for several performance metrics in its annual budget request to the Legislature (e.g., licenses issued, applications processed, number of exams given, successful exam candidates, and investigations completed). However, based on separate documents provided by the Board and analyzed by PEER staff, the data provided either does not reflect the actual performance of the Board’s primary functions, or it is difficult to prove that it does.

For example, for the performance metrics pertaining to exams, the number of students who take the licensure exam, and the number of “successful candidates” (presumed to mean the number of students who passed the exam) do not accurately reflect actual exam results. The Board reports in its FY 2023 budget request that in FY 2021, 396 students took the licensure exam, and 388 were

“successful candidates.” However, PEER analysis of exam results from the same time period showed 391 student attempts to pass licensure exams. Only 136 of those students passed the required exams. Thus, while the Board’s numbers reflect a pass rate of 98% for its students, the actual pass rate in FY 2021 was only 35%.

Some of the Board’s performance measures in its budget request for FY 2024 are also in error. As shown in Exhibit 9 on page 35, the Board reports that 391 exams were given in FY 2022 and that 400 people successfully passed the exams. It is impossible to have more successful candidates than exams given. Even if this error is disregarded, and it is instead presumed that there were 400 exams given and 391 “successful candidates,” the data is still inaccurate. Based on separate exam data provided by the Board, in FY 2022, there were actually 394 students who attempted to pass the required exams, and only 155 students passed the required exams. While the Board’s numbers reflect a pass rate of 98%, the actual pass rate was only 39% (see page 11 for more information on testing issues and page 14 for issues with testing data).

Exhibit 9: Barber Board Budget Request Performance Measures

Form MBR-1-03PI

PROGRAM PERFORMANCE MEASURES

Program Data Collected in Accordance with the Mississippi Performance Budget and Strategic Planning Act of 1994

* 0.00 in the "APPRO" column may indicate the measure is not in the agency appropriations bill.

Board of Barber Examiners (840-00) 1 - Examination
 Name of Agency PROGRAM NAME

PROGRAM OUTPUTS: (This is the measure of the process necessary to carry on the goals and objectives of this program. This is the volume produced, i.e., how many people served, how many documents generated.)

	FY 2022 APPRO	FY 2022 ACTUAL	FY 2023 ESTIMATED	FY 2024 PROJECTED
1 Number of Examinations Given	420.00	391.00	390.00	410.00
2 Successful Candidates	0.00	400.00	380.00	400.00

SOURCE: Mississippi State Board of Barber Examiners FY 2024 Budget Request.

Issues with the Board’s Current Office Location

The Board office is not located in a state-owned office building and is being leased from a private owner. Due to COVID-19 closures and the building owner’s concerns regarding trespassing, the Board office has not been easily accessible to licensees or the public since March 2020. This restrictive access could deter individuals from receiving services from the Board. Further, the office is not conducive to public participation during Board meetings.

The Board office is located in a privately-owned, four-story building on George Street in Jackson. The Board leases approximately 1,200 square feet of space within the building.

Office Not Easily Accessible

On May 11, 2022, PEER staff attempted to hand-deliver a letter regarding its review of the Board. The building's doors were locked, and on the window of the building's doors, a sign from the Board read "DUE TO COVID-19, WE ARE NOT OPEN TO THE PUBLIC. YOU MUST MAIL IN YOUR PAYMENTS. DO NOT ASK ANYONE TO OPEN THE DOORS FOR YOU."

Exhibit 10: Barber Board "No Entry" Sign (May 11, 2022)



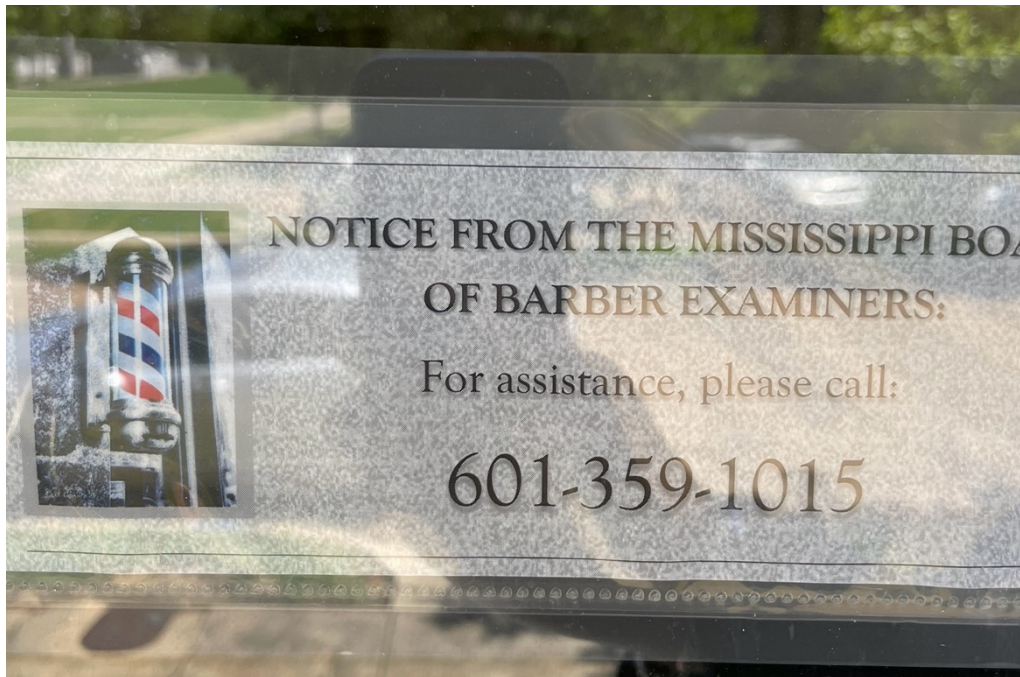
SOURCE: PEER staff photograph.

On May 12, 2022, PEER staff informed the Board in writing that Mississippi state agencies returned to work from COVID-19 nearly two years ago and that the Board office was expected to be open to serve the public.

The Board responded by modifying its sign on the door to read, "For assistance, please call: 601-359-1015."

Exhibit 11 on page 37 contains a photo of the Barber Board's amended sign.

Exhibit 11: Modified Barber Board Entrance Sign (May 26, 2022)



SOURCE: PEER staff photograph.

In accordance with MISS. CODE ANN. § 25-1-97 and 25-1-98 (1972), the Board office is expected to be open and serve the public Monday through Friday from 8 a.m. to 5 p.m.

The Board staff stated to PEER that after its office's closure due to COVID-19, the building owner expressed concerns regarding trespassers accessing the building; therefore, he requested that the building be locked at all times.

While much of the public's business could be conducted over the phone or via mail, some individuals might prefer to interact with the Board staff face-to-face, particularly regarding licensing information or to report a complaint. Thus, restricting access to the Board office could deter individuals from receiving services from the Board.

Office Not Conducive to Public Participation in Meetings

MISS. CODE ANN. § 25-41-1 (1972) et seq., establishes the requirement for all public bodies in the state of Mississippi to have their official meetings be open and public. PEER attended a Board meeting on Sunday, August 21, 2022, and observed certain aspects of the meeting that were not conducive to public participation. In particular, the office is not set up in a way that allows for easy participation and observation for members of the public. Board members sit at a conference table on one end of a room in the office, with members of the public seated in chairs along the wall on the other side of the room. The distance and the sound of the air conditioner made it difficult to hear Board discussions, an issue that was exacerbated when those sitting with their backs to members of the public spoke. There is no designated place for members of the public who are addressing the Board to sit or stand, such as a podium, which at times made the speaking recognition

process seem less formal and resulted in other members of the public attempting to speak out of turn.

The Board should be expected to make its meetings as accessible to the public as possible and take into consideration the public's ability to observe and participate in the meeting effectively.

Alternative Structures for the Regulation of Barbering and Cosmetology

The two boards responsible for regulating the barbering, cosmetology, and related professions in Mississippi (i.e., Barber Board and the Mississippi State Board of Cosmetology) oversee licensees with similar scopes of practice and have demonstrated substantial deficiencies, such as weaknesses in financial management and internal controls and a failure to complete inspections to minimize health and safety risks. These deficiencies have negatively impacted the boards' management operations and oversight functions. The state could benefit from a solution that would help address the boards' problems and also result in a cost savings.

The Mississippi State Board of Cosmetology (MSBC) and the Barber Board were created by the Legislature and charged with the regulation and oversight of their respective industries. The regulation and oversight extend to several areas including, but not limited to:

- promulgation of rules and regulations;
- establishment of curricula for schools;
- issuance of licenses; and,
- enforcement of laws, rules, and regulations.

There is significant overlap between the legal definitions of barbering and cosmetology, which makes attempts to differentiate between the two professions difficult. For example, both professions have the authority to cut, perm, straighten, color, and bleach hair, as well as apply certain body applications (e.g., clays and lotions). Such overlap suggests that a common structure for regulating these professions is both necessary and practical.

Proponents of separate regulatory boards argue that cosmetology is a broader profession than barbering, and that barbers need their own board to ensure that the barbering profession is not minimized by the cosmetology profession in a combined structure. However, the scopes of practice are similar and the mandates of the boards are the same: to protect the health and safety of licensees and consumers. The NIC advises both professions and also creates exams used nationwide for licensing in both professions.

Additionally, in PEER's 2021 review of MSBC (PEER Report #665, *A Review of the Mississippi State Board of Cosmetology*), PEER highlighted several critical issues within MSBC's operational management and with its oversight of the state's cosmetology industry. Similarly, this report highlights critical issues within the Barber Board's operational management and oversight of the barbering industry. These deficiencies decrease the effectiveness and efficiency of regulating the two industries while increasing the risk of fraud or financial mismanagement.

This chapter provides two potential alternative structures for the regulation of Mississippi's barbering and cosmetology industries. The alternative structures include:

- placing both boards under the oversight of the Mississippi Department of Health; and,
- the consolidation of both boards into one agency.

Placement of Both Boards under the Mississippi Department of Health

One option for addressing the deficiencies of the Barber Board and MSBC is to require the Department of Health's Professional Licensure Division to regulate the barbering and cosmetology professions. This option could increase the effectiveness and efficiency of regulatory functions and could result in a cost savings.

One option that could mitigate some of these boards' deficiencies is to require another regulatory body to regulate the professions. Currently, 30 states (including Washington D.C.) regulate their barbering and cosmetology professions through a professional licensing entity. These entities are housed within various state agencies, including the secretary of state's office (e.g., Vermont), the state's department of labor (e.g., South Carolina), or the state's department of health (e.g., Iowa).

Mississippi currently has a professional licensing entity located in the Mississippi Department of Health (MSDH)—i.e., the Professional Licensure Division. The Professional Licensure Division is responsible for the oversight of 15 professions within Mississippi (e.g., Athletic Trainers, Dietitians, Occupational Therapists, and Tattoo Operators and Facilities), and its responsibilities include developing industry regulations, licensing, conducting inspections, and approving continuing education.

Potential Improvements

The placement of MSBC and the Barber Board under MSDH's Professional Licensure Division has the potential to increase both the efficiency and effectiveness of the state's regulation of the barbering and cosmetology industry. A few examples of these potential improvements include, but are not limited to:

- **More efficient inspections:** As of the end of FY 2022, the Barber Board and MSBC had an equivalent of 3.125 total FTEs (i.e., full-time equivalents) charged with the annual inspection of approximately 6,779 licensed shops, salons, and schools.¹¹ Under MSDH, more inspectors would be available to complete a higher number of inspections due to decreased travel time per inspector.
- **Compliance with state law and DFA policy regarding internal controls and financial management:** Both boards have been cited by OSA for failing to comply with certain legal requirements (e.g., timely deposit requirements for transferring funds to the State Treasury). The professional staff at MSDH could have an increased knowledge of the legal requirements and will potentially increase compliance with those requirements.
- **More effective segregation of duties:** The larger number of employees at MSDH increases the available options to properly segregate responsibilities, potentially reducing the risk of fraud or financial mismanagement.

¹¹ This is a combined number of licenses regulated by the Barber Board and MSBC. Data pertaining to the number of salons and schools regulated by MSBC is found in PEER Report #665, *A Review of the Mississippi State Board of Cosmetology* (2021), and is based on information provided by MSBC as of October 12, 2021.

- **More efficient sanitation regulation:** Under the state’s current regulatory structure, MSDH must approve all changes to either board’s sanitation regulations. Housing these two boards within MSDH has the potential to increase speed and seamlessness of this process.
- **Consistency in regulation of professions:** Some of the Board’s current practices (e.g., inspections) are inconsistent between the two professions. Placing the boards under MSDH would allow for more consistent regulation with other professions under MSDH’s regulatory authority.
- **Better customer service:** Because of the similar scopes of practice for both professions, the general public might be confused as to which board has authority over which practitioners or services. Under MSDH, the public would be more easily informed as to who to contact for services or to file a complaint.
- **More efficient governance structure:** Regulating both boards through MSDH would allow the Legislature to amend current statutes to change both industries’ existing boards into advisory councils.¹² Most advisory councils are only statutorily required to meet a minimum of two times per year, a total far smaller than either Barber Board or MSBC’s current meeting schedule. These few meetings would reduce the amounts paid annually for per diem, travel expenses, and mileage reimbursements, thereby reducing the cost of operations.

Cost Savings Estimate

PEER estimates the net annual cost savings of placing MSBC and Barber Board under MSDH to be approximately \$141,000.

To determine the cost-effectiveness of placing the two boards under MSDH, PEER analyzed FY 2022 financials for both the Barber Board and MSBC. The consolidation analysis sought to account for all changes to cost resulting from

the transfer of these two boards into MSDH. PEER made estimates regarding the consolidation of agency personnel, Board and inspector travel, and procurement of agency goods and services. Expenditure estimates were conservative, meaning that the largest available figure or estimate was utilized for future expenses if the removal of an expenditure was questionable, or if an estimate needed to be used.

Based on PEER analysis, the transfer of Barber Board and MSBC could potentially save their licensees approximately \$141,000 annually, a savings of approximately 13% of the combined expenditures of both boards. The majority of the cost savings is a result of decreased expenses in the area of contractual services, including:

- **\$78,800 in other professional fees and services:** For example, during FY 2022 MSBC executed contracts for executive management, branding, IT, and operational and project management services.
- **\$19,200 in financial and accounting services:** For example, MSBC contracts with Cornerstone Consulting for its daily accounting functions and annual budget preparation.

¹² Advisory councils are statutory entities under the jurisdiction of the Mississippi Department of Health created to assist in the administration of specific statutes. For example, MISS. CODE ANN. §73-55-17 (1972) establishes the Athletic Trainers Advisory Council for the express purpose of aiding MSDH with the administration of the provisions of “The Mississippi Athletic Trainers Act of 1991,” an act passed to provide regulation for the athletic training industry.

- **\$16,911 in building rental expense:** For example, the Barber Board currently leases commercial office space, and its consolidation into MSDH would mitigate the need for this contract.

Exhibit 12 on page 43 provides all of the expense categories in which savings could occur, as well as an estimated dollar amount of savings.

To preserve various aspects of each agency's institutional knowledge, PEER's analysis did account for the transfer of some existing staff of the two agencies to MSDH.

While the projected number of staff being retained and transferred to MSDH was lower than the existing staffing level of the two agencies combined, PEER's analysis did not estimate cost savings related to the payment of salaries, wages, and fringe benefits.

With the implementation of the state's new compensation system (SEC2¹³), projected salaries for these employees are expected to increase. These increases range from a few thousand dollars per year for various office personnel to approximately \$20,000 per year for existing Barber Board inspectors.

¹³ SEC2 is Mississippi's new compensation system that went into effect January 1, 2022. SEC2 was developed by the Mississippi State Personnel Board to create a classification system that is fair and equitable and allows for recruitment, retention, and motivation of a qualified workforce.

Exhibit 12: Estimated Net Cost Savings by Placing Barber Board and MSBC under the Mississippi Department of Health’s Professional Licensure Division

Cost Category	Estimated Cost Savings
Fees and Services – Professional Fees Charged	\$78,800
Other Contractual Services	\$39,775
Accounting and Financial Services	\$19,200
Building and Floor Space Rental	\$16,911
Temporary Staff Services	\$15,986
Commodities	\$14,356
Capital Outlay	\$13,379
Cell Phones	\$13,170
Equipment Rental	\$6,571
Travel and Subsistence	\$6,544
Salaries, Wages, and Fringe Benefits ¹	(\$83,746)
Net Cost Savings	\$140,946

1. With the implementation of the state’s new compensation system (SEC2), estimated salaries for the Barber Board and MSBC employees are projected to increase. However, increases related to SEC2 adjustments are not made automatically, but are made at the agency’s discretion.

SOURCE: PEER analysis of the Mississippi Board of Barber Examiners and the Mississippi State Board of Cosmetology FY 2022 financials.

Consolidation of the Two Boards into One Regulatory Entity

An alternative option to address the deficiencies of the Barber Board and MSBC is to consolidate the two boards under one independent regulatory entity. This option could also increase the effectiveness and efficiency of regulatory functions and could result in cost savings.

An alternative option that could mitigate some of these boards’ deficiencies is to consolidate the boards into one entity. Because of the similarities between the professions, there are 32 states (including Washington, D.C.) in which the professions of cosmetology and barbers are regulated by the same board, including ten states in which these industries are regulated by one independent entity.

Potential Improvements

Like the option previously discussed, the regulation of both boards under a new consolidated, independent agency could mitigate some of the identified operational and regulatory issues of the two boards. A few examples of these potential improvements include, but are not limited to:

- **Full-time inspectors for both boards:** The Barber Board employs three part-time inspectors to conduct inspections statewide. A consolidated Board would provide the opportunity for full-time inspectors (like the two currently employed by MSBC) to more efficiently conduct inspections due to more hours available to work and lower travel times per inspector.
- **Fewer total Board members:** During the 2022 Legislative Session, Senate Bill 2647 (2022) addressed the issue of consolidating the Barber Board and MSBC. This bill included a combined regulatory board with nine members (including a representative from MSDH). This structure would reduce the total number of Board members by one, and reduce the payment of per diem for Board related activities by an additional person. The representative from MSDH would attend the meetings as a component of his or her regular duties and would not be eligible for per diem.
- **Ease of license renewal for dual-licensed practitioners:** Approximately 100 practitioners in the state are licensed by both the Barber Board and MSBC. License renewals for these practitioners could be easier through one combined entity.
- **Computer-based license exams for all applicants:** The Barber Board is currently utilizing a paper test for its licensee evaluations. By consolidating, the Barber Board could utilize the expertise of MSBC in offering the computerized NIC test for its licensees. This would allow for use of the NIC test in multiple languages and could provide better accommodation for any disabled candidates.
- **More effective segregation of duties:** The larger number of employees from a consolidated regulatory entity would provide more opportunities for appropriate separation of key responsibilities between staff members.
- **An accessible office location:** The Barber Board's office is not easily accessible to practitioners or the public.
- **Consistency in regulation of both professions:** Some of the Board's current practices (e.g., inspections) are inconsistent between the two professions. Combining the boards would allow for more consistent regulation of inspections in both professions.

Cost Savings Estimate

To help determine the cost-effectiveness of this course of action, PEER analyzed FY 2022 financials for both the Barber Board and MSBC. Based on PEER analysis, the consolidation of the Barber Board and MSBC into one regulatory entity could potentially save their licensees approximately \$38,000 annually, or approximately 13% of the Barber Board's FY 2022 expenditures. The majority of the cost savings are a result of decreased expenses in the area of contractual services, including:

- **\$16,911 in building rental expense:** The Barber Board currently leases commercial office space and its consolidation with MSBC would mitigate the need for this contract.

- **\$13,742 in professional fees and services:** The Barber Board currently contracts for bottled water, NIC paper testing supplies, and IT services that would duplicate services already procured by MSBC.

Exhibit 13 on page 45 provides all of the expense categories in which savings could occur, as well as an estimated dollar amount of savings.

Again, to preserve various aspects of each agency’s institutional knowledge, PEER’s analysis did account for the transfer of some existing staff of the two agencies to the consolidated regulatory entity.

While the projected number of staff being retained and transferred to MSDH was lower than the existing staffing level of the two agencies combined, PEER’s analysis did not estimate cost savings related to the payment of salaries, wages, and fringe benefits.

This fact is primarily due to the conservative nature of PEER’s analysis. With the implementation of the state’s new compensation system (SEC2), projected salaries for these employees are expected to increase. These increases range from a few thousand dollars per year for various office personnel to approximately \$20 thousand per year for existing Barber Board inspectors.

Exhibit 13: Estimated Net Cost Savings by Consolidating Barber Board and MSBC into an Independent Regulatory Entity

Cost Category	Estimated Cost Savings
Building and Floor Space Rental	\$16,911
Fees and Services – Professional Fees Charged	\$13,742
Other Contractual Services	\$4,773
Commodities	\$4,533
Travel and Subsistence	\$3,018
Internet Service	\$2,051
Equipment Rental	\$1,464
Salaries, Wages, and Fringe ¹	(\$8,517)
Net Cost Savings	\$37,975

1. With the implementation of the state’s new compensation system (SEC2), estimated salaries for the Barber Board and MSBC employees are projected to increase. However, increases related to SEC2 adjustments are not made automatically, but are made at the agency’s discretion.

SOURCE: PEER analysis of the Mississippi Board of Barber Examiners and the Mississippi State Board of Cosmetology FY 2022 financials.

Recommendations

1. The two boards responsible for regulating the barbering, cosmetology, and related professions in Mississippi (i.e., the Barber Board and the Mississippi State Board of Cosmetology) oversee licensees with similar scopes of practice and have demonstrated substantial deficiencies in their operations. Based on PEER's assessment of the potential benefits and cost savings of two alternative regulatory structures, PEER recommends that the Legislature should consider amending MISS. CODE ANN. § 73-5-1 and 73-7-1 (1972) to dissolve the both the State Board of Barber Examiners and the State Board of Cosmetology and create a Barbering Advisory Council and a Cosmetology Advisory Council within the Mississippi Department of Health's Professional Licensure Division that would advise the State Health Officer on the regulation of their respective industries.
2. To eliminate the imbalance of licensing requirements for in-state and out-of-state applicants, and to ensure clarity in licensing requirements, the Legislature should consider:
 - a. amending MISS. CODE ANN. § 73-5-11 (1972) to set the minimum age and education requirement to qualify for licensing to be comparable to contiguous state requirements. Qualifications would be no more than a tenth-grade education, and a minimum age of 16 years of age to qualify for licensing; and,
 - b. amending MISS. CODE ANN. § 73-5-11 (1972) to allow aspiring practitioners to qualify for licensing examination through apprenticeship hours in lieu of schooling hours. To reflect laws in other states, the Legislature should require a minimum number of hours of training (e.g., apprenticeship hour requirements shall be no more than double the school hour requirements for any profession), set uniform standards for who is allowed to oversee an apprentice (e.g., a licensed barber instructor), and set a maximum allowed mentor-to-apprentice ratio (e.g., only one apprentice per mentor).
3. The Legislature should consider amending MISS. CODE ANN. § 73-5-17 (1972) to prohibit Board members from administering exams.
4. The Board should establish regulations to address underperforming schools that fail to prepare their students for the licensure exams. For example, the Board could require barber schools to maintain accreditation from a national accrediting organization in order to be licensed and in good standing with the Board. Should the Board decide it needs further statutory authority to enforce these regulations, the Board should propose recommended statutory amendments to the Legislature.
5. The Board should compile and distribute data on exam scores to licensed schools, and also make this data publicly available.
6. The Board should amend its *Rules and Regulations* to be consistent with MISS. CODE ANN. § 73-5-8 (1972) regarding age, education, and training requirements for barber instructors. If the Board believes the statutory requirements need to be amended, it should work with the Legislature to amend those requirements.
7. In order to alleviate deficiencies in the administration of licensure exams, the Board should:

- a. review the state laws exam annually to ensure it is reflective of current laws and is content-valid for evaluating a person's preparedness to be licensed as a barber;
 - b. utilize third-party contractors to administer exams;
 - c. create a detailed scoring rubric for the practical exam;
 - d. share the results of practical exams with schools and license candidates; and,
 - e. implement exam practices that allow for improved accessibility (e.g., online exams at testing centers, using mannequins in lieu of live models for practical exams).
8. The Board should amend its *Rules and Regulations* to remove the barber license requirement to be able to read, write, and speak English. Additionally, the Board should:
- a. offer the theory and state laws exams in all language versions offered by the NIC, creating more opportunity for success for Mississippi residents despite their level of English fluency; and,
 - b. consider similar possible accommodations for the practical exam, such as written instructions translated into multiple languages (e.g., translated with the assistance of the NIC).
9. To achieve its goal of completing annual inspections, the Board should:
- a. evaluate inspector territories to factor for travel distance, and consider redrawing territories to make inspection quotas more feasible;
 - b. create a more formal and equitable inspection schedule (i.e., ensuring that one shop is not inspected multiple times in one year, while another shop is not inspected during that year); and,
 - c. increase its number of inspectors to meet using available funds and employee PINs.
10. To increase consistency within the enforcement process, the Board should:
- a. amend its *Rules and Regulations* to better reflect the Board's actual inspection and enforcement practices (e.g., define all possible violations, incorporate a penalty matrix with fines for violations); and,
 - b. ensure its inspectors follow a uniform inspection process to prevent arbitrary behavior. This process should include a detailed checklist that each inspector adheres to for every inspection.
11. The Board should adhere to MISS. CODE ANN. § 25-3-69 (1972) when requesting per diem by Board members. The Board should also create a written standard operating procedure for Board members requesting per diem to ensure consistency in the Board's use of funds. For example, these requests could be limited to times at which the Board is working *in solido*, such as at Board meetings or hearings, or in scenarios where a significant amount of time is dedicated to the duties of the Board (e.g., observing a continuing education seminar or investigating a complaint).
12. To ensure transparency and the efficient use of public funds, the Board should:
- a. submit itemized receipts with meal reimbursement requests; and,
 - b. ensure that its policies and procedures are in alignment with the Department of Finance and Administration's travel reimbursement guidelines and provide guidance to Board

members and staff on permissible meal reimbursement expenses (e.g., the Board shall not claim meals after the conclusion of Board business when not traveling).

13. The Board should improve its compliance with state law and DFA travel policies regarding travel reimbursements. Also, the Board should reimburse for travel at a minimum cost for achieving the success of the Board's mission. For example, the Board should:
 - a. avoid reimbursing for travel without required authorization and receipts;
 - b. avoid reimbursing for commuting of staff;
 - c. ensure that it correctly calculates mileage reimbursements for actual miles traveled; and,
 - d. ensure that it designates a "regular place of work" for its employees, particularly the Chief Inspector.
14. The Board should improve its compliance with state laws and regulations by adopting and enforcing policies and procedures that strengthen the agency's internal controls and financial management, with emphasis on the areas of:
 - a. segregation of duties;
 - b. execution of surety bonds;
 - c. payment of PERS contributions; and,
 - d. cash management.
15. To ensure the prudent use of public funds, the Board should adhere to DFA policies related to the leasing of office space.
16. The Board should improve its records and management information to allow for the review of the Board's performance of its regulatory responsibilities. Additionally, the Board should improve the accessibility of its data so that it can be used by Board members and staff to effectively perform its regulatory functions.
17. To ensure the public's access to the Board's services, as well as the public's ability to effectively participate in the Board's public meetings, the Board should contact DFA to secure a state-owned office space as soon as possible. In the meantime, the Board should consider alternative locations to hold Board meetings that could be more conducive to public participation.
18. PEER will deliver a copy of this report to the Office of the State Auditor for review of the issues described in this report.

Appendix A: Fees Charged by the Mississippi State Board of Barber Examiners

Type of Fee		Amount (\$)
Individual		
Barber License		45.00
Barber License (65 to 71 years old)		30.00
Barber License (72 years and older)		FREE
	Late Fee – 30 days	10.00
	Late Fee – 60 days – 1 year	25.00
	Late Fee – Over 1 year	License Fee + 10.00 per year late
Instructor License		50.00
Instructor License (65 to 71 years old)		30.00
Instructor License (72 years and older)		FREE
	Late Fee – 30 days	10.00
	Late Fee – 60 days – 1 year	25.00
	Late Fee – Over 1 year	License Fee + 10.00 per year late
Shops and Schools		
Shop License		15.00/Barber Chair
	Late Fee – 30 days	25.00
	Late Fee – Over 1 year	License Fee + 10.00 per year late
New Shop		25.00 + 15.00/Barber Chair
School License		100.00
	Late Fee – 30 days	25.00
New School		125.00
Exams and Other		
Barber Exam		100.00 (Includes License Fee)
	Retake Exam	55.00
Instructor Exam		105.00 (Includes License Fee)
	Retake Exam	55.00

SOURCE: MISS. CODE ANN. § 73-5-29 (1972).

Appendix B: Barber Licensing Requirements by State

State	Governing Board	Age Prerequisite (years)	Education Prerequisite (Grade)	Training Requirements
Alabama	Alabama Board of Cosmetology and Barbering	16 years	10th grade or its equivalent	1,000 school hours OR 2,000 apprentice hours
Alaska	Alaska Board of Barbers and Hairdressers	None	None	1,650 school hours OR 2000 apprentice hours
Arizona	Barbering and Cosmetology Board	16 years	10th grade or its equivalent	1,200 school hours
Arkansas	Arkansas State Board of Barber Examiners	16 1/2 years	8th grade or its equivalent	1,500 school hours
California	State Board of Barbering and Cosmetology	17 years	10th grade or its equivalent	1,000 school hours OR 3,200 apprentice hours
Colorado	Office of Barber and Cosmetology Licensure (within Dept. of Regulatory Agencies)	16 years	None	50 credit hours OR 1,500 contact hours
Connecticut	CT Examining Board for Barbers, Hairdressers and Cosmeticians	None	8th grade or its equivalent	1,000 school hours
Delaware	Board of Cosmetology and Barbering (within Delaware Division of Professional Regulations)	None	10th grade or its equivalent	1,250 school hours OR 3000 apprentice hours
Florida	Florida Board of Barbers (within Department of Business & Professional Regulation)	16 years	None	900 school hours (600 hours if student passes exam and other requirements are satisfied)
Georgia	Georgia State Board of Cosmetology and Barbers	16 years	12th grade or its equivalent	1,500 school hours OR 3000 apprentice hours
Hawaii	Hawaii Board of Barbering and Cosmetology (within Dept. of Commerce and Consumer Affairs)	17 years	None	1,500 school hours OR 1,500 apprentice hours within 12 months
Idaho	Idaho Barber and Cosmetology Services Licensing Board (within Division of Occupational and Professional Licenses)	16 1/2 years	10th grade or its equivalent	1,500 school hours OR 3,000 apprentice hours

Illinois	Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Board (within Illinois Dept. of Financial & Professional Regulation)	16 years	12th grade or its equivalent (OR beyond age of compulsory school attendance)	1,500 school hours
Indiana	Indiana State Board of Cosmetology and Barber Examiners (within Indiana Professional Licensing Agency)	18 years OR 17 with high school diploma	If 17 years, 12th grade; If 18 years, None	1,500 school hours
Iowa	Board of Barbering (within the Iowa Dept. of Public Health - Bureau of Professional Licensure)	None	10th grade or its equivalent	2,100 school hours
Kansas	Kansas Board of Barbering	16 years	12th grade or its equivalent + "of good moral character and temperate habits"	1,200 school hours
Kentucky	Kentucky Board of Barbering	17 1/2 years	12th grade or its equivalent + "of good moral character and temperate habits"	1,500 school hours + 6 continuous month mandatory apprenticeship
Louisiana	Louisiana Board of Barber Examiners	18 years	12th grade or its equivalent + "of good moral character and temperate habits"	1,500 school hours
Maine	Maine Barbering and Cosmetology Licensing Program (within Department of Professional & Financial Regulation - Office of Professional and Occupational Regulation)	None	None	800 school hours OR 1,600 apprentice hours
Maryland	Maryland Board of Barbers (within Maryland Department of Labor - Division of Occupational and Professional Licensing)	16 years (for apprenticeship)	None	1,200 school hours OR 2,250 apprentice hours

Massachusetts	Board of Registration of Cosmetology and Barbering (within Department of Consumer Affairs & Business Regulation - Division of Professional Licensure)	None	None	1,000 school hours
Michigan	Michigan State Board of Barbers (within Dept. of Licensing and Regulatory Affairs)	17 years	10th grade or its equivalent + "of good moral character"	1,800 school hours OR 1,800 apprentice hours
Minnesota	Minnesota Board of Barber Examiners	None	10th grade or its equivalent	1,500 school hours
Mississippi	Mississippi State Board of Barber Examiners	18 years (found on barber exam application, but not in statute or Rules)	12th grade or its equivalent + "of good moral character and temperate habits"	1,500 school hours
Missouri	Missouri Board of Cosmetology and Barber Examiners (within the Missouri Division of Professional Registration)	17 years	None	1,000 school hours OR 2,000 apprentice hours
Montana	Montana Board of Barbers and Cosmetologists (within the Montana Dept. of Labor and Industry)	18 years	12th grade or its equivalent + "of good moral character"	1,100 school hours
Nebraska	Nebraska Board of Barber Examiners	17 years	12th grade or its equivalent	1,800 school hours
Nevada	Nevada State Barbers' Health and Sanitation Board	18 years	12th grade or its equivalent + "of good moral character and temperate habits"	1,500 school hours AND 18 months as apprentice
New Hampshire	NH Board of Barbering, Cosmetology & Esthetics (within the Office of Professional Licensure and Certification)	None	12th grade or its equivalent + "of good professional character"	800 school hours OR 1,600 apprentice hours
New Jersey	New Jersey State Board of Cosmetology and Hairstyling (within the Division of Consumer Affairs)	17 years	12th grade or its equivalent + "of good moral character"	900 school hours

New Mexico	New Mexico Board of Barbers and Cosmetologists (within New Mexico Regulation & Licensing Department)	17 years	None	1,200 school hours OR 1,200 apprentice hours
New York	Dept. of State Division of Licensing Services	17 years	Elementary education + "of good moral character"	Completion of barber school course (Hours not specified) OR 2-year apprenticeship
North Carolina	NC Board of Barber Examiners	None	None	1,528 school hours AND 12-month apprenticeship
North Dakota	North Dakota Board of Barber Examiners	18 years	12th grade or its equivalent	1,500 school hours
Ohio	Ohio State Cosmetology and Barber Board	18 years	8th grade or its equivalent	1,800 school hours
Oklahoma	Oklahoma State Board of Cosmetology and Barbering	16 years	8th grade or its equivalent	1,500 school hours OR 3,000 apprentice hours
Oregon	Oregon Board of Cosmetology (within Oregon Health Licensing Office)	18 years	12th grade or its equivalent	1,251 school hours
Pennsylvania	Pennsylvania State Board of Barber Examiners (within Department of State - Professional Licensing Division)	16 years	8th grade or its equivalent	1,250 school OR apprentice hours
Rhode Island	Board of Barbering and Hairdressing (within Division of Professional Regulation at Department of Health)	18 years	12th grade or its equivalent + "of good moral character"	1,000 school hours AND 840 apprentice hours within 6 months
South Carolina	South Carolina Board of Barber Examiners (within South Carolina Dept. of Labor, Licensing and Regulation)	16 years	9th grade or its equivalent	1,500 school hours OR 1,920 apprentice hours
South Dakota	South Dakota Board of Barber Examiners (within Dept. of Labor and Regulation)	18 years	None	1,500 school hours
Tennessee	State Board of Cosmetology and Barber Examiners	16 years	None ¹	1,500 school hours
Texas	Texas Barbering and Cosmetology Advisory Board (within Texas Dept. of Licensing and Regulation) ²	16 years	None	1,000 school hours

Utah	The Cosmetology and Associated Professions Licensing Board (within Department of Commerce - Division of Occupational and Professional Licensing)	None	None	1,000 school hours OR 1,250 apprentice hours
Vermont	Secretary of State Office of Professional Regulation (with assistance from Barber and Cosmetology Board Advisors)	None	12th grade or its equivalent	750 school hours OR 1,125 apprentice hours
Virginia	Virginia Board for Barbers and Cosmetologists (within Department of Professional and Occupational Regulation)	16 years (apprenticeship)	None	1,100 school hours OR 2000 apprentice hours in a 12-month period
Washington	Cosmetology, Barbering, Esthetics, Manicuring, and Hair Design Advisory Board (within Washington State Department of Licensing)	17 years	None	1,000 school hours OR 1,200 apprentice hours
Washington DC	The DC Board of Barber and Cosmetology (within the Dept. of Consumer and Regulatory Affairs)	18 years	10th grade or its equivalent	1,500 school hours OR 500 school hours AND 2,000 apprentice hours
West Virginia	West Virginia State Board of Barbers and Cosmetologists	18 years (16 years for apprentice)	12th grade or its equivalent + "of good moral character and temperate habits"	1,200 school hours OR 2,400 apprentice hours
Wisconsin	Barbering Advisory (within Dept. of Safety and Professional Services)	18 years (if education requirement is not met)	12th grade or its equivalent	1,000 school hours OR 1,712 apprentice hours
Wyoming	Wyoming Board of Barber Examiners	17 years	10th grade or its equivalent	1,250 school hours

1. A Tennessee chancery court enjoined the Tennessee Board of Cosmetology & Barber Examiners from enforcing the statutory requirement of a 12th grade education or its equivalent to qualify for licensure in August 2020, so there is currently no prerequisite education requirement for licensure.
2. Texas passed a law in 2021 combining the previously separate boards for regulating cosmetology and barbering into one advisory board within the Texas Department of Licensing and Regulation.

SOURCE: PEER analysis of nationwide statutes governing barber licensing.

Appendix C: Barber Board Practical Exam Grading Sheet

BARBER PRACTICAL EXAMINATION RECORD MISSISSIPPI BOARD OF BARBER EXAMINERS

NAME: _____ DATE: _____

BARBER GRADING FACTORS

POINT IN EACH CATEGORY			MAX POINTS IN EACH CATEGORY
	TAPER HAIRCUT	Sanitation Taper Finished Look	Outline Top Use of Tool General Knowledge Oral Exam
	MALE SHAMPOO Stand Up	Patron Protection Product Application/Removal Scalp Manipulation	Chemical Knowledge Oral Exam
	SHAVE	Patron Protection/Lather Application 14 Stroke Application/Removal	Application/Removal Oral Exam
	FACIAL	Patron Protection Manipulation/Movement Application/Removal	Hot Towel Oral Exam
	COLOR	Patron Protection Sectioning Application/Removal	Chemical Knowledge Oral Exam
	FEMALE SHAMPOO	Patron Protection Product Application/Removal Scalp Manipulations	Chemical Knowledge
	PERM	Patron Protection Parting Section Rod Placement	Application/Removal Oral Exam
	HAIR STYLING	Sanitation Cutting Technique Back Section Side Section Top and Front Section	Finish Style Use of Tools Style Selections General Knowledge Oral Exam
	POINTS OF PROCEDURE	Attitude Ability General Knowledge	Properly Prepared Appearance

BOARD MEMBER SIGNATURE: _____

SOURCE: Mississippi Board of Barber Examiners.

Appendix D: MSBC Practical Exam Grading Sheet

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COSMETOLOGY PRACTICAL EXAMINATION

STATION SET UP - 5 MINUTES		Weight	Failure
1	Set up mannequin stand and mannequin (un-sectioned and uncombed) – Haircut Mannequin not cut true to form – General Bag Only		
SANITATION			
1	Arrives with disinfected implements in sealed containers and clean supplies – labeled in English	5	
2	Sanitizes hands (One time before test unless the hands become unsanitary)	5	
3	Sanitizes work area (One time before test unless the table becomes unsanitary)	5	
4	Universal precautions shall be utilized to clean blood and body fluids	15	
5	Implements dropped on the floor shall not be used until demonstrating mock disinfection	20	
6	Places disposable materials in trash after use	20	
7	Places used implements in container separate from disinfected implements	20	
8	Sanitizes work area after completing tasks (One time after the end of ALL tasks)	10	
BASIC FULL LAYERED HAIRCUT – 1" CUT MINIMUM (SHEARS OR RAZOR) - 90° ELEVATION – ALL PERIMETERS CUT AT 0° - 45 MINUTES			
1	Drapes client	5	
2	Wets and sections hair	5	
3	Establishes control of tools throughout haircut	10	
4	Establishes and follows guideline	20	
5	Removes a minimum of 1" of hair	20	
6	Executes full layered hair with 90° Elevation – All Perimeters Cut at 0°	20	
7	No tags, gaps or windows – must be blended	10	
8	Uses cutting tools safely	5	
9	Clean up and sanitize	5	
10	Completes skill in the allotted time		
PERMANENT WAVE - 30 MINUTES			
1	Drapes client for chemical service	5	
2	Sections hair for permanent wave (minimum 6 sections – maximum 9 sections)	5	
3	Sub-section in correlation with the diameter of the rod size	5	
4	Partings are straight and clean	5	
5	Wraps 6 rods of 3 graduated sizes (¼ off base) – Center back section	20	
6	Hair is wrapped around rods evenly and smoothly	15	
7	Fastens the band along the top of the rod verifying it is not twisted	15	
8	Applies cream or cotton around rods	5	
9	Wears disposable gloves during application of mock solution only	5	
10	Applies mock solution evenly for processing	5	
11	Demonstrates test curl	5	
12	Verification of no fish hooks	10	
13	Completes skill in allotted time		
THERMAL STYLING – CURLING IRON (1/2" to 3/4") – 20 MINUTES			
1	Drape client	5	
2	Checks temperature of iron on white paper	10	
3	Subsections the back crown in correlation to the diameter of the iron	15	
4	Demonstrates 1 on base curl	10	
5	Demonstrates 1 half off base curl	10	
6	Demonstrates 1 off base curl	10	
7	Places comb between iron and scalp to prevent burns	10	
8	Partings for sub-section are straight and consistent in size	10	
9	Hair is free of fishhooks	10	
10	Hair is free of ridges	10	
11	Completes skill in allotted time		
THERMAL PRESSING – FLAT IRON OR PRESSING COMB - SOFT PRESS (1 TOP / 1 BOTTOM) - 15 MINUTES			
1	Drape client	5	
2	Checks temperature of iron or comb on white paper	10	
3	Parts sub-sections straight and consistent in size	20	
4	Protects from burns	5	
5	Demonstrates Pressing Comb – Presses hair using back of comb OR Demonstrates Flat Iron – Free of creases (Utilizing three (3) curls from Thermal Styling 5400)	25	
6	Hair is free of ridges	20	
7	Completes skill in allotted time		
HIGHLIGHTING / BLEACH RETOUCH - 20 MINUTES			
1	Drape client for chemical service	5	
2	Section utilizing top front half of head	5	
3	Wears disposable gloves during application	5	
4	Completes 3 foils (weave or slice – leaving hair between foils) – Utilizing ¼ of the section	20	
5	Demonstrates clean partings	5	
6	Using a brush and a bowl - Applies product evenly to the hair strand not extending to scalp area	10	
7	Check mannequin's skin for bleach and removes product	5	
8	Bleach retouch – Utilizing remaining ¼ of the section	5	
9	Using brush and bowl, applies product at the scalp completely covering ¼" to 1" of regrowth	20	
10	Cross-checks section to ensure complete coverage	5	
11	Removes excess product from the skin	5	
12	Avoids overlapping of product on previously lightened hair	10	
13	Completes skill in allotted time		
CHEMICAL RELAXER – RETOUCH (1/2" REGROWTH) - 15 MINUTES			
1	Drape client for chemical service	5	
2	Utilizes right front side of head	5	
3	Applies base cream to hairline and ears	10	
4	Wears disposable gloves during application	5	
5	Applies mock relaxer to regrowth in ¼" to ½" subsections	25	
6	Verifies complete coverage	20	
7	Smooths hair with back of non-metal comb or application brush	20	
8	Verifies mid-shaft and ends are free from product	5	
9	Verifies unprotected area free from product	5	
10	Completes skill in allotted time		
FAILURE OF ANY SKILL WILL RESULT IN A FAILURE OF THE EXAMINATION – EXAMINATION RESULTS		Pass	Fail
STUDENT NAME:			

SOURCE: Mississippi State Board of Cosmetology.

Appendix E: Student Pass Rates by School

FY 2022 Totals			
School*	Students Tested	Students Passed	Pass Rate
School D	1	1	100%
School R (School Closed)	1	1	100%
Marshall County Correctional Facility	5	5	100%
School V	21	20	95%
School M	10	8	80%
School U	4	3	75%
Hinds Community College - Raymond	28	20	71%
School AD	3	2	67%
School S	18	11	61%
School J	2	1	50%
School P	6	3	50%
School W	2	1	50%
School T	21	9	43%
School G	12	5	42%
Pearl River Community College	24	10	42%
School O	8	3	38%
School C	6	2	33%
School H	19	6	32%
School N	37	11	30%
East Mississippi Community College	17	5	29%
School F	40	11	28%

School AC	16	4	25%
School AA	22	5	23%
School Q	9	2	22%
School A	6	1	17%
School Z	38	5	13%
School E (School Closed)	2	0	0%
Coahoma Community College	7	0	0%
School I	1	0	0%
School L	3	0	0%
School X	2	0	0%
School AB	3	0	0%

FY 2022 Total	394	155	39%
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*For privately-operated schools, PEER assigned a random letter to each school.

SOURCE: PEER analysis of data provided by Mississippi Board of Barber Examiners.

Appendix F: Barber Board Inspection Form



Board of Barber Examiners Inspection Report



County of _____

Date _____

SHOP/SCHOOL NAME _____

Address _____

SHOP/SCHOOL LICENSE NUMBER: _____

Purpose:

- General Inspection New Shop Inspection
 Change of Location Follow-Up Inspection
 School/College Inspection Violation(s) of State Laws

INSPECTION RATING

- A - EXCELLENT**
B - FAIR
C - BAD, MUST BE IMPROVED

- _____ License# _____
 _____ License# _____
 _____ License# _____
 _____ License# _____
 _____ License# _____
 _____ License# _____
 _____ License# _____
 _____ License# _____
 _____ License# _____
 _____ License# _____

ENFORCEMENT OF SANITATION REGULATIONS

- YES NO Posting of Sanitation Rules
 YES NO Adequate on waste container provided
 YES NO Use of Sanitary Towels (properly stored)
 YES NO General Maintenance of instruments
 YES NO Adequate Lighting and Ventilation
 YES NO Use of EPA registered disinfectant
 YES NO Adequate Hot and Cold running water

CONDITION OF BARBER SHOP/SCHOOL/COLLEGE

- SATISFACTORY MARGINAL
 UNSATISFACTORY Subject to Closure

Violation(s) of MS Code of 1972

- 73-5-7 73-5-9 73-5-21
 73-5-25 73-5-33 73-5-43

FINE AMOUNT

COMMENTS _____

NAME _____ INSPECTOR/EXAMINER _____

If you have questions about this citation you may call the Board of Barber Examiners State Office at (601) 359-1015 or you may write us at P.O. Box 603, Jackson, MS 39205.

SOURCE: Mississippi Board of Barber Examiners.

PEER's Response to the Board of Barber Examiners' Response

The Mississippi Board of Barber Examiners submitted a response¹⁴ to the PEER Committee's report entitled *A Review of the Mississippi Board of Barber Examiners*. While the PEER Committee rarely publishes a written response to that of the entity reviewed, the Committee believes that such a response is warranted in this case.

In its response, the Barber Board made several statements that either were not supported by facts or documentation, misrepresented analysis and findings of this report, or demonstrated misunderstanding of the analysis and findings of this report.

Instances of Unsupported Claims

Instances in which claims made by the Board were not supported by facts or documentation include, but are not limited to, the following:

- *Dissolving boards does not address the issues of the industry. You will lose the knowledge, history and expertise of the current professionals attempting to streamline or effect [sic] cost savings over time.*
 - In the cost estimations for alternative structures created by PEER, it was assumed that most of the staff would remain employed with the Board, regardless of any structural changes made. A majority of the cost savings projected in both alternative structures resulted from removing redundant expenses and reducing contractual services expenses.
- *Merging MSBC and MS Barber Board will create a chaos within the state of the hair industry.*
 - As stated on page 43, there are 32 states (including Washington, D.C.) where regulation of cosmetology and barbering is conducted by a single entity. Further, the Executive Directors of both the NIC and NABBA (the two professional support organizations for state boards of cosmetology and barbering) both said that regulation of these industries can be done effectively under one regulatory entity, and that there are multiple practical reasons for doing so.
- *... the board cannot take it upon themselves to change the law to meet modern [exam administration] requirements legally.*

¹⁴ The Board's response is attached. Within the Board's response, PEER has redacted several individuals' names or other identifying information (e.g., email addresses) in addition to page number references that are not consistent with the page numbers in PEER's final report. The folder of attachments submitted with the Board's response is available to review upon request in the PEER office.

- The Board can make changes to how it administers exams without changes to state law, or even the Board's *Rules and Regulations*. There is no language in statute or the *Rules and Regulations* requiring in-person testing at only one location, live practical exam models, or Board members administering or grading exams. If the Board wished to make these changes, it is authorized to do so.
- *The Board's rules and regulations are currently consistent with the statutory requirements.*
 - While discussions concerning changes to the Board's *Rules and Regulations* were observed by PEER staff at the Board's August 2022 meeting, those changes were not yet approved at the meeting, and the changes were tabled to allow Board members to review them further. As of November 10, 2022, any changes to the *Rules and Regulations* are not reflected in the *Rules and Regulations* on file with the Mississippi Secretary of State. Additionally, no changes have been submitted to the Secretary of State for approval by the Occupational Licensing Review Commission (OLRC). Therefore, the *Rules and Regulations* reviewed by PEER are still in effect and are not consistent with statutory requirements, as described on pages 7 through 9.
- *The logistics and amount of documentation required by a registered barber to oversee the [apprenticeship] program would not be welcome or feasible to private businesses.*
 - The Board provided no documentation to support this claim. As stated on page 9 of this report, there are currently 24 states that allow a barber license applicant to receive his or her training through apprenticeships in lieu of schooling. Additionally, the Executive Directors of both NIC and NABBA voiced support for apprenticeship opportunities, if developed and regulated effectively.

Instances of Misrepresentation of PEER Analysis

Examples of instances in which the Board's response misrepresented analysis and findings of this report include, but are not limited to, the following:

- *...the PEER Committee failed to review the see the [sic] legislative approvals where the Board adopted the MSBC violations sheet (with modifications) and penalty matrix.*
 - As stated previously, because changes to the *Rules and Regulations* have not been approved by the OLRC and filed with the Secretary of State, the

Rules and Regulations reviewed by PEER are still in effect, and they do not contain a penalty matrix, as discussed on pages 19 and 20. Similarly, at the time of this review, including during inspections observed by PEER staff, the Barber Board was still utilizing the inspection form found in Appendix F on page 59 for inspections and violations.

- *The board does not review DD214 forms or any other documents not required for enrollment into a college or school. When Trendsetters school was inspected, the school was operating in “Good Standing” according to rules & regulations the Board enforces.*
 - According to charging documents and the plea agreement for the case of *U.S. v. Kelley*, Trendsetters Barber College was offering a course for a “Master Barber” license for three years, which is not a license offered by the Barber Board. Therefore, the curriculum for the “Master Barber” license was not legitimate, against state law, and against the Board’s *Rules and Regulations*. If inspections included an inspection of records, the Board could have found evidence of this fraudulent course and taken action without reviewing DD214 forms.
- *At no time was I [the author of the response, presumed to be the chief inspector of the Board] asked to provide documentation concerning the ‘two months of activity reports’ in question... None of the chief inspector’s activity report [sic] were egregious or intentionally flagrant in nature.*
 - PEER requested all FY 2022 inspection forms and activity reports for inspectors (including the chief inspector) from the Executive Director of the Barber Board. The Executive Director was able to provide all but two months of the chief inspector’s activity reports and claimed that no activities were performed by the chief inspector in those months due to other commitments. PEER never received any additional inspection forms or activity reports, despite asking multiple times if what was provided was the complete work product. Upon analysis of the activity forms, as well as travel reimbursement forms that were also collected, there was evidence of work being performed by the chief inspector in the months for which no activity form was available. The Board’s records of its employees’ activities were either incomplete or inaccurate, which is cause for concern.
- *A merger of the boards [MSBC and Barber Board] does not save the taxpayer any money nor [sic] increase taxes in any way... PEER estimates the net annual cost savings of placing MSBC and Barber Board under MDH [sic] was approximately \$141,000. There is no real significant savings.*

- The Barber Board’s analysis of the plan to place the Barber Board under MSDH misrepresents the significance of the potential cost savings in this alternative structure. The cost savings of \$141,000, as discussed on pages 40 through 43, would represent a combined savings of 13% of the annual expenses of the Barber Board and MSBC for FY 2022. The Board’s annual revenue for FY 2022 was approximately \$254,000. The Board claims that it cannot resolve several of the issues raised by PEER in this report, such as a record management system costing approximately \$70,000, due to a lack of sufficient funds. The cost savings could help resolve some of these issues.
- *PEER did not conduct analysis of cost estimate [sic] related to what it would cost the MDH [sic] to merger [sic] both boards to include salaries, wages and fringes... PEER only displayed cost savings if the Boards were placed under MDH [sic]. No comparisons of our existing budget or operating expenses were conducted by PEER... PEER failed to contact other states our size to comparison [sic] cost savings and benefits verses [sic] liabilities [sic].*
 - PEER factored salaries, wages, and fringe benefits into the cost/benefit analysis of both alternative structures discussed. As discussed on pages 42 and 45, PEER used a full implementation of the state’s new compensation system (SEC2) to determine the cost of salaries, wages, and fringe benefits. This greatly increased the cost of these expenses, as many employees from both MSBC and the Barber Board would receive a significant increase in pay. However, a full implementation of SEC2 is not required by state law, which means the cost savings could likely be even greater within these alternative structures than what is described in this report.
- *PEER noted that 32 of the 54 states & territories have merged together. PEER failed to indicate or notate calls or emails from those states to provide feedback. There is no feedback from these states to determine efficiency and effectiveness.*
 - PEER analyzed the structure of 51 regulatory entities in the United States (50 states plus Washington, D.C.) by reviewing the state laws and regulations governing the cosmetology and barbering industries in those states. As stated previously, PEER also discussed the concept of combining the regulation of these industries under a single board with the Executive Directors of both NIC and NABBA, the two professional support organizations for state boards of cosmetology and barbering. These national organizations are valuable resources that are able to quickly provide high-level insight and analysis on the trends affecting the industries and regulatory agencies they work with nationwide. Both said that

regulation of these industries can be done effectively under one regulatory entity, and that there are multiple practical reasons for doing so.

Instances of Misunderstanding PEER Analysis

Finally, examples of instances in which the Board's response seemingly misunderstood analysis and findings of this report include, but are not limited to, the following:

- *The PEER draft review called into question the Board's accounting of its financial and human resources. The chief inspector is responsible to supervise inspections and investigations.*
 - The Board's response seems to suggest that PEER states that the chief inspector should be responsible for accounting of the Board's financial and human resources. This is not the case. PEER instead finds that accounting of the Board's financial and human resources should fall to the Executive Director, and by extension the Board members. The fact that there were so many discrepancies within the activities, work product, and travel reimbursement forms of the chief inspector suggest that the Executive Director, and by extension the Board, are failing in their oversight responsibilities related to their own staff and resources.
- *The [Barber Board office building] security measures were given by the [office building] owner, not the board.*
 - PEER does not fault the Barber Board for the security measures put in place by the owner of the building in which its office is located. However, the Board continued to refuse entry to anyone under the pretense of COVID restrictions, two years after state offices were reopened to the public. This is a result of Board policies and decisions, not the owner's security measures.
- *Under cost saving [sic] estimate, PEER reported a net annual cost savings of combining MSBC and Barber Boards to be approximately \$38,000. PEER stated earlier in the report that total cost savings was \$141,000. It is unclear what the total cost savings is based on in [sic] this statement.*
 - The cost savings discussed in this statement are the result of two potential options for restructuring the regulation of the barbering and cosmetology industries, as discussed in this report on pages 39 through 45. These numbers do not conflict, as they are a result of different solutions. If both MSBC and the Barber Board were placed under MSDH, the conservative estimate for cost savings is approximately \$141,000. If MSBC and the Barber Board were dissolved and reconstituted as one independent

regulatory board, the conservative estimate for cost savings is approximately \$38,000.

PEER provided the Barber Board ample time to review the report draft. Further, PEER conducted an exit conference with the Board, in which it was given an opportunity to discuss the report and provide documentation to support any of its claims. However, the Board was not prepared to actively participate in the exit conference. As a result, the disagreements and misunderstandings could not be resolved prior to the Board's submission of its response.

The PEER Committee is confident in the accuracy of the conclusions detailed in the report and urges the Barber Board to give serious consideration to developing, implementing, and adhering to corrective actions for each issue addressed in the report.

The Mississippi Board of Barber Examiners' Response



MISSISSIPPI BOARD OF **BARBER EXAMINERS**

October 28, 2022

APPROVED BY THE BOARD OF BARBER EXAMINERS

SUBMITTED BY EXECUTIVE DIRECTOR

THIS IS THE OFFICIAL RESPONSE BY THE BOARD OF BARBER EXAMINERS TO THE PEER COMMITTEE REVIEW. COPIES OF THIS REPORT CAN BE MADE AVAILABLE THE PUBLIC UPON REQUEST. THE BOARD WILL PROTECT INFORMATION AND WILL NOT RELEASE YOUR NAME, EMAIL ADDRESS OR OTHER PERSONAL INFORMATION TO ANY ADVERTISER, MERCHANT OR OTHER THIRD PARTIES NOT RELATED TO THE MISSISSIPPI BOARD OF BARBER EXAMINERS.

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Official Response to the Review Conducted by the PEER Committee

The Board does not agree or concur with dissolving both boards under any circumstances. The profession itself must be preserved and supported by legislation to improve the industry. The issue is having to get pre-approval from Mississippi Department of Health (MDH) before you can adopt or modify sanitation measures. Being a special fund agency is not conducive to quick and easy modifications of the law. Legislation still must occur in order for any agency to address issues within the profession. Dissolving boards does not address the issues of the industry. You will lose the knowledge, history and expertise of the current professionals attempting to streamline or effect cost savings over time. The board concurs that improvements and updates must be made. In reference to the apprenticeship program, The Board does not have the statutory authority to institute a process and procedures to regulate such program. Merging MSBC and MS Barber Board will create a chaos within the state of the hair industry. The Board maintains its position on making the improvements based on the recommendations.

Issues with Regulatory Activities

In response to the issues, the Board of Barber Examiners has not received any support from the state legislature in the matter of making changes or updating the current law. Since 2018, the board has made extraordinary efforts to seek legislative changes to our law. The bill dies each year in both the house and the senate. 2020 was the only year the board did not submit due to the COVID-19 pandemic. Due to this lack of support by the legislature and Department of Health, the board could only enforce the existing rules, regulations and laws governing the practice of barbering.

Issues Regarding the Examination Process

Being a special fund agency, the board has limited funding available to contract a third-party vendor to administer exams to prospective candidates. According to § 73-5-17 (Examinations)

The Board of Barber Examiners shall conduct examinations of applicants for certificates of registration to practice as registered barbers not less than three (3) times a year, which examination shall be had in some town or city selected by the examining board. Examinations of applicants for certificates of registration as barber instructors shall be conducted at a time and place selected by the examining board.

The examination of applicants for certificates of registration as registered barbers shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually practiced in a duly licensed shop of Mississippi under the direct and personal supervision of a registered barber. The examination of applicants for certificates of registration as barber instructors shall include such subjects as the board deems necessary to determine the applicant's fitness to practice as a barber instructor (excerpt from MS CODE ANN. 73-5-17).

Therefore, the board has not violated any laws nor administered the exams outside of statutory law. Until there is a legislative effort to update or change the law, the board cannot take it upon themselves to change the law to meet modern requirements legally.

Issues Regarding the Enforcement Process

Historically, the inspectors have been restricted to working 60 hours or less per month. This equates to an average of 12-15 hours per week. Due to guidance of the Board and financial advice of then Executive Director, the former chief inspector advised all district inspectors to focus on ensuring each inspected shop was in compliance of the law prior to exiting the barber shops. The focus was to (1) inspecting new shops, (2) ensure existing shops were in compliance with the law prior to exiting and (3) investigate complaints of alleged non-compliance reported to the state office. This guidance was given to all district inspectors to be more efficient across the state. Also, the PEER committee failed to acknowledge that two of three inspectors' primary source of income is their barbershops. The chief inspector had the most flexible schedule to handle most of the workload across the state. We utilize the time available to target the most effective ways to gain compliance to regulate the profession with limited resources.

The former chief inspector focused on investigations, public affairs, legislative affairs, complaints against inspectors, background investigations and inspecting the work of the inspectors each month. Inspectors focused their efforts in areas where unsanitary practices were reported. In January of 2022, the board submitted a draft to become a HB or SB for disciplinary measures to be instituted for enforcement. The bill was killed due to a lack of support by committee.

Issues with the Number of Completed Inspections

The PEER Committee disclosed that only 191 inspections of 2,134 barber shops were inspected. The real factor is the lack of a records management process or data entry system. The Board does not have the funding to purchase a records management system. There is no way to officially say all 2,134 barber shops are open for operations. The inspectors have reported verbally to the chief

inspector that most counties have only 2-4 active barber shops in their jurisdiction. As new shops are entered, the old shops or shops no longer in operation are not discarded from the registry. The PEER Committee never asked “how many were still in operation.” The PEER Committee did not document how the existing system works or conduct random checks to see if the registry was accurate.

There is no effective way to schedule shop inspections based on the availability of inspectors. The part-time inspectors who are limited to 60 hours at pay rate of less \$9.50 per hour. The inspectors don't work every week. Each year, the inspectors are mandated not to perform duties between June and August due to budget constraints.

Issues with Enforcement Capabilities

As previously stated, the PEER Committee failed to review the see the legislative approvals where the Board adopted the MSBC violations sheet (with modifications) and penalty matrix. The Board has reviewed and approved the revised rules and regulations. The board attorney was working to get documents filed with Secretary of State's office. The current fine schedule allows the inspector discretion to fine a violator if deemed necessary. There was a copy of a board approved policy & procedure manual governing inspections/investigation submitted to the PEER Committee on May 31, 2022 (**EXHIBIT 1**).

Issues with Board Oversight regarding United States v. Kelley

An inspector general investigator with the US Department of Veterans Affairs contacted the board concerning authenticity and whether the licensees were current in our system. Between October 2016 and March 2019, Anthony Kelley, owner of Trendsetters Barber College advertised that his school was a VA and state accredited agency through the Mississippi Board of Barber Examiners. Mr. Kelley was allegedly using fake DD 214 forms with students' names that were not entitled to Post 9/11 GI Bill benefits. The investigator contacted the board to validate the names submitted to the VA to determine if they were licensed by the board. The former chief inspector spoke with the investigator by phone. The investigator never officially said their agency had an investigation on-going. The former executive director advised the former chief inspector to assist however need. Between that time period, no further contact was made until March 2019.

It was my understanding that the initial investigator had transferred to another assignment and a new investigator was assigned. The former executive director informed the chief inspector of the change. The new investigator did not disclose any information concerning the investigation. Therefore, no action was taken against Mr. Kelley at the time. The former chief inspector advised the board to delay any actions until the US Courts rendered a decision. The PEER Committee called in to question “the quality of the Board's school inspections.” The Board only

has the responsibility to review Mississippi Code of 1972, 73-5-7 (4) Rule 1.3 Schools A-Z, AA-II to ensure compliance. The board does not review DD214 forms or any other documents not required for enrollment into a college or school. When Trendsetters school was inspected, the school was operating in “Good Standing” according to rules & regulations the Board enforces.

The Board President was made aware of the *US v. Kelley* case by the former executive director. The former Board Attorney Ms. Green advised the board that it would be unethical to have knowledge of a case that is currently under investigation by another agency until the facts are introduced to the Board. The former executive director notified the chief inspector on of a letter from the US District Courts. The former chief inspector was subpoenaed to testify before the US District Court on September 28, 2021(Exhibit 2). Prior to this, Mr. Kelley was not in violation of any laws; neither was the school sanctioned for any violations. The Board Attorney and chief inspector advised the Board to grant the authority to retrieve information available on the facts and circumstances surrounding the fraud case after the verdict. Mr. Kelley was just sentenced on August 17, 2022. The current Board Attorney advised the Board that Mr. Kelley is entitled to a revocation hearing and due process.

According to § 73-5-27 (Hearings) *The Board of Barber Examiners may neither refuse to suspend or revoke, nor revoke or suspend any certificate of registration as a registered barber or barber instructor, for any of the causes enumerated in this chapter, unless the holder of such certificate has been given at least twenty (20) days’ notice, in writing by registered mail, signed by the President and Secretary of the Board of Barber Examiners, setting forth the charges against such holder of such certificate and naming the time and place for a hearing upon the charge or charges, and a public hearing thereof by the Board of Barber Examiners. The person shall return a written response within ten (10) business days acknowledging receipt of the letter and confirmation of attendance at the board hearing no later than the close of business of the tenth day.*

Upon the hearing of any such charge or charges the board may issue all subpoenas for all necessary witnesses for and against the accused, and require their attendance upon such hearing, may administer oaths, and may procure by process the production of all necessary books and papers, bearing or touching upon such charges against the accused.

The investigation itself was not public knowledge until trial. The Board would not have had sufficient evidence to suspend, revoke or charge Mr. Kelley with a violation of barber laws. Furthermore, Appendix F-Inspection Report is not the form used to document requirements within a barber school. The current school inspection does document whether a school is in compliance or out of compliance with state law, rules and regulations (**EXHIBIT 2**).

Issues with Per Diem and Travel Requirements 

All board members, inspectors and staff have been provided a copy of the State travel policy rules & regulations. All board members, inspectors and other staff will have training.

Issues with Accounting of Work Activities and Associated Travel 

The former chief inspector was the primary employee traveling due to the non-availability of district inspectors' (owner/operator of their own barbershops) primary job work schedule. The chief inspector was heavily relied upon by the President and Executive Director to handle sensitive complaints or arbitrary situations. The chief inspector does not have and has not been assigned a regular place of work. He is not issued a computer due to budget constraints. Most of his duties consisted of inspecting the district inspector's monthly, legislative meetings, inspecting schools, conducting background checks, attending teleconference calls, writing reports, evaluating inspectors and advising the executive director. (SEE EXHIBITS 5 THRU 77).

According to Miss. Code Ann. § 73-5-3. Officers and employees, the board may employ four (4) inspectors, one (1) to be appointed from each of the four (4) congressional districts, to make periodic inspections of all barbershops throughout the state and one (1) chief inspector to be appointed from the state at large to supervise inspections and investigations statewide. Therefore, the Board designated the chief inspector to supervise all inspectors, their work and handling all investigations within the state by statutory authority. A copy of the Inspections & Investigations Manual was provided to the PEER Committee.

The chief also serves as the training officer, writes letters for the executive director, files inspection reports after review, reviews complaint reports to determine whether resources or employees should investigate and assign inspectors to specific areas of non-compliance with law. The chief inspector primarily worked the weekends due to having full-time employment with another agency. Most of his travel is more than 99 miles away from his home. Most of the federal and state regulatory enforcement agencies have positions that require certain positions to travel 25% of the compensatory time.

The PEER draft review (paragraph 1) states the Board employs a part-time chief inspector responsible for conducting inspections and investigations across the state as well as performing administrative duties. *According to Miss. Code Ann. §73-5-3 (Officers and employees; compensation; common seal; records; quorum), the board may employ four (4) inspectors, one (1) to be appointed from each of the four (4) congressional districts, to make periodic inspections of all barbershops throughout the state and one (1) chief inspector to be appointed from the state at large to supervise inspections and investigations statewide. The board shall employ the necessary personnel to carry out the provisions of this chapter, and maintain and pay the expenses of an office to be located in the City of Jackson. All per diem, salaries and expenses shall be paid exclusively from the funds in the board's special fund, and salaries and expenses of personnel may be disbursed monthly.* The PEER draft review called into question the Board's accounting of its financial and human resources. The chief inspector is responsible to supervise inspections and investigations.

According to Mississippi State Personnel Board 4.3 (travel and expenses), if a State employee is required to travel in the performance of an official duty, reasonable expenses will be paid by the State. Prior approval may be required for travel reimbursement. Employees should request information regarding their agency's travel reimbursement policy from their human resources director. Rules and regulations governing official travel are established by the Department of

Finance and Administration. The chief inspector is responsible for supervising inspections and investigations statewide. The majority of the agency's response to complaints or issues across the state is handled by the chief inspector. The former executive director gave verbal consent concerning major investigations. The Board grants the chief inspector the authority to conduct investigations. Because it's such a small agency, by default is the human resource director for the agency. Under Miss. Code Ann. §73-5-3. Officers and employees: The board shall employ an executive director with compensation to be established by the State Personnel Board, and the executive director shall devote his or her full time to oversee all day-to-day operations of the board. Therefore, the executive director determines what appropriate response should be based on the financial state of the agency.

If the agency did not have the funding, the chief inspector would contact the complainant to determine if a law, rule or regulation was violated via phone. If the complaint needs to be addressed, the chief inspector would state the alleged violation and the executive director gives authority to conduct specific investigation. The chief inspector has not violated of any Department of Financial Administration (DFA) policies or procedures concerning travel.

PEER Committee only called via cell phone to ask several questions. At no time was I asked to provide documentation concerning the "two months of activity reports" in question. What months was the PEER committee referring to? Of the 25 instances (30% of the total), what as conflicting information concerning in the chief inspector's activity report? The PEER only highlights one occurrence where the chief inspector did not show duties completed on May 4, 2022. The committee only focused on the inspections side of the chief inspector's duties. (See Exhibits) The chief inspector tasked the third district inspectors to enforcement board rules & regulations. The chief handled all barber school inspections and shop investigations primarily to maintain continuity of effort for the agency. None of the chief inspector's activity report were egregious or intentionally flagrant in nature. Documentation is provided to refute the PEER Committee's assertion regarding work activities and associated travel (**SEE EXHIBIT 5 THRU 77**).

Issues with Internal Controls

The Board normally has a "sufficient" number of staff necessary to run day-to-day operations. The Board office staff has only three positions to support the entire state. Most of the work load falls on the Executive Director by virtue of having the most knowledge and experience; however, the duties are currently split between the Executive Director and one other staff member, since the "office assistant" position is currently vacant.

The last viable candidate for the position failed to show up for interview. The Executive Director has re-posted the announcement to recruit new candidates. In the interim, the Executive Director has temporarily assigned additional duties to the Director of Compliance and Chief Inspector to reduce the load on Board office staff. The Executive Director has advised the Board President of the current status of filling the position.

Surety Bonds

The new Executive Director was not aware of one board member not being covered under a surety bond. The Board has taken steps to ensure there is a blanket bond for all employees and board members to include the agency itself. There is no current issue with bonds at the current time. The Executive provided PEER with whom was covered

Other Issues with Financial Management

Issue has been resolved.

Board Office Lease

The Board has actively pursued DFA for office space for the past five years. The former executive director and the current director have exhausted all avenues to secure an office space meeting DFA requirements. This should not be an adverse response by PEER. They have not offered any alternative resolution for building space. The current director has gone through the process of getting a new lease with the assistance of [REDACTED]. The Board recently signed a three year lease with the current building owner in 2022 (EXHIBIT 3 & 4).

[REDACTED]
From: [REDACTED]@dfams.gov
Sent: Wednesday, September 7, 2022 10:17 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: Approval letter
Attachments: 100-251-25A.doc
Flag Status: Flagged

Good morning Sharron,
Attach is approval letter from PPRB for Lease # 100-251-25A.
Thanks

[REDACTED]
Bureau of Building and Real Property Management
Department of Finance and Administration
dfams.gov
[REDACTED] Office
521 North West Street, Suite 1401B
Jackson, MS 39201



STATE OF MISSISSIPPI
DEPARTMENT OF FINANCE AND ADMINISTRATION
OF WHICH
ENCLERED DIRECTOR

September 7, 2022

[REDACTED]
Mississippi Board of Barber Examiners
510 George Street, Suite 400
Jackson, MS 39202

RE: Lease # 100-251-25A

Date [REDACTED]

September 7, 2022, the Public Procurement Review Board reviewed with Real Property Management and approved your lease request # 100-251-25A. Approval is contingent upon a fully executed Lease Contract.

1. You are now authorized to execute the Lease (Successive Lease or Amendment, etc.). Please forward a copy of the signed lease via E-Mail, signed by both parties to this office. **Make sure payment request will not be pushed forward until a copy of the signed lease has been received by PPRM.** Also, please remember that each Agency is now required to post their Leases and the actual signed copy into MAJRC for transparency purposes.
2. Please show the current Lease Number on all correspondence. In the Lease Name field in BRICKS, also in MAGIC, use the BRICKS Lease Number as the Contract Name and use BRICKS - LEASE as the Contract Type.
3. Note that the deadline for submitting future lease requests is approximately 60 days before the current lease expires. This deadline must be followed.

[REDACTED]
Bureau of Building and Real Property Management
dfams.gov

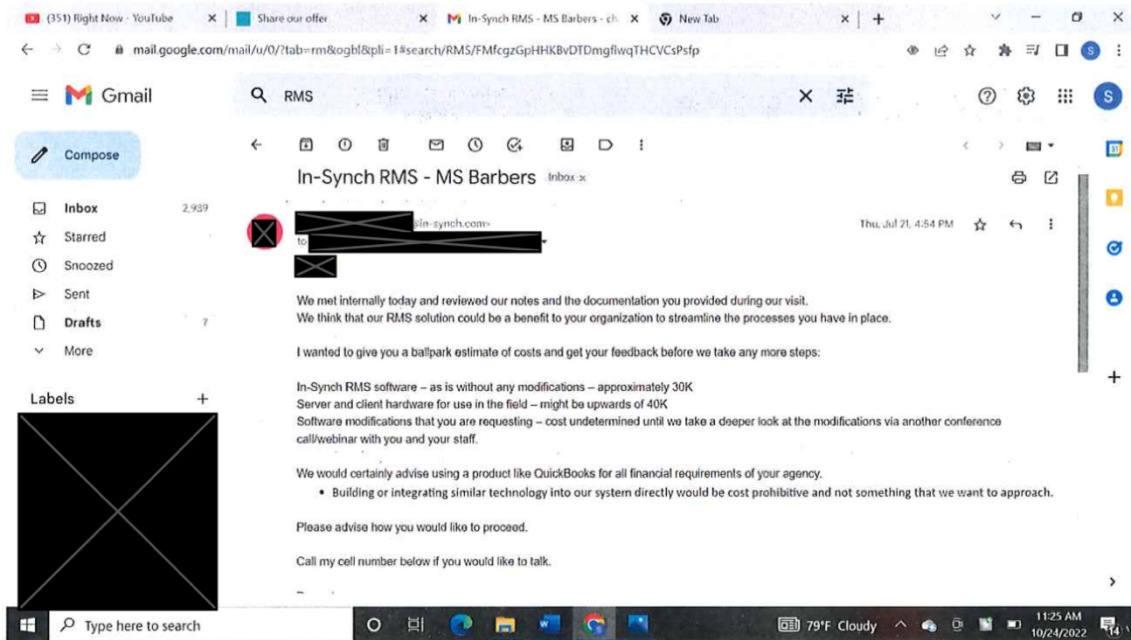
BUREAU OF BUILDING, GROUND AND REAL PROPERTY MANAGEMENT
MISSISSIPPI GOVERNMENT CENTER, SUITE 1401B, 521 NORTH WEST STREET, JACKSON, MISSISSIPPI 39201

Cash Management

The current executive director and office assistant were under the advice of the former director to deposit checks and money orders within 2 business days. The current executive director was not aware of the requirements by DFA. Doing the PEER review, the current director learned of the existing policy and procedures for handling agency funds. The Board is currently modifying existing policies and procedures to be consistent with the DFA policy.

Issues with Records and Data Management

The Board has diligently sought an affordable records management system for the past two years on the recommendations of the chief inspector. A company called In-Synch RMS visited our office to provide a DEMO of their capabilities. Below is the response to request a quote for an affordable RMS. Unfortunately, the RMS was not within the budget of the existing funds available. In FY 18 through FY 22, the executive director has reached out to National Barber Boards of America and other states to secure a more cost-efficient RMS. Most of the RMS are too costly and outside the agency's budget to secure. The office staff has created an analog system to meet the requirements highlighted by the PEER report. (SEE EXHIBIT BELOW)



Issues with the Board's Current Office Location

The Board has tackled this issue for years. The former Executive Director reached out several times for state office space, but was told that none was available. The Board is located in a privately-owned, four-story building on George Street. The board is subject to the tenant rules and regulations governed by the building owner. The building itself is not assigned a security guard or Capitol Police personnel due to it being privately-owned. Therefore, the board is subject to the terms of the contract agreement and safety measures the building owner deems necessary for all tenants. The security measures were given by the owner, not the board (in response to PEER Exhibit 10-11).

The Board does not support any form of merger with the Mississippi Board of Cosmetology. The Board will correct and make policies & procedures to be in compliance with state law requirements. A merger of boards does not save the taxpayer any money nor increase taxes in any way.

The Department of Health may have the structure to provide oversight. However, they are not designed to mitigate secondary trade school related issues. An advisory council is not the role a professional organization should be operating under. The Board contends that they should continue being an advocate for the profession and providing the expertise needed to move the industry forward.

The PEER report failed to cite that under Miss Code Ann. § 73-5-7. (*Rules; inspection; records*) (1) *The Board of Barber Examiners shall have authority to make reasonable rules and regulations for the administration of the provisions of this chapter. Provided, however, that any and all rules and regulations relating to sanitation shall, before adoption by the board, have the written approval of the State Board of Health.* Furthermore, this has the most significant effect on the Board's ability to change or modify rules & regulations to governing barbering profession. Also, the Board has made efforts from FY 18 to current in legislation to change or modify the existing law so rules & regulations can be updated. The Board Attorney was emailed by the Office Assistant the approved documents to submit to Secretary of State's office for approval on February 11, 2022 (**EXHIBIT 78- 80**)

From: [REDACTED] <[REDACTED]@msbarberboard.com>
Sent: Thursday, February 24, 2022 12:39 PM
To: [REDACTED] <[REDACTED]@ago.ms.gov>
Subject: RE: Rules & Regs Clean Copy, Markup Copy, and Form 001

My email was down and this was emailed to you on February 11, 2022 for your review
Thank you.

[REDACTED]
Executive Director
Mississippi Board of Barber Examiners
510 George Street, Suite 400
Jackson, MS 39202
601-359-1015

From: [REDACTED] <[REDACTED]@msbarberboard.com> <[REDACTED]@msbarberboard.com>
Sent: Friday, February 11, 2022 2:02 PM
To: [REDACTED] <[REDACTED]@ago.ms.gov>
Cc: [REDACTED] <[REDACTED]@msbarberboard.com>
Subject: Rules & Regs Clean Copy, Markup Copy, and Form 001

Good afternoon [REDACTED]. Attached find our rules and regs and form 001 for review and corrections. Please let us know if you have any questions or concerns pertaining to the documents.

Sincerely,

[REDACTED]
Mississippi State Barber Board


FW: Rules & Regs Clean Copy, Markup Copy, and Form 001 Inbox x

@msbarberboard.com

See  response.

Mississippi State Barber Board
PO Box 603
Jackson, MS 39205
Office: 601-359-1015
Fax: 601-359-1050
Email: @msbarberboard.com



From: @ago.ms.gov
Sent: Friday, February 25, 2022 1:05 PM
To:  <execdirector@msbarberboard.com>; @msbarberboard.com
Subject: RE: Rules & Regs Clean Copy, Markup Copy, and Form 001


Thank you. I was in a board meeting and hearing that day. I will review.


Special Assistant Attorney General
Office of the Attorney General

SOS APA Form 001

Mississippi Secretary of State
125 South Congress St., P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME MS Board of Barber Examiners		CONTACT PERSON 		TELEPHONE NUMBER 601-359-1015	
ADDRESS 510 George Street, Suite 400		CITY Jackson		STATE MS	ZIP 39202
EMAIL execdirector@msbarberboard.com	SUBMIT DATE	Name or number of rule(s): Rule 1.3 Schools MS Code of 1972,73-5-7(4); Rule 1.4 Physical Facilities MS Code of 1972, 73-5-7(4); Rule 1.8 Equipment MS Code of 1972,73-5-7(9); Rule 3.1 Requirements MS Code of 1972, 73-5-7 (4); Rule 4.2 Curriculum MS Code of 1972,73-5-7(4); Rule 4.3Break in attendance/failure to apply for examination MS Code of 1972,73-5-7(4); Rule 6.1 Barber Shops/Barber Schools Regulation MS Code of 1972,73-5-7(4),73-5-8(5),73-5-11(17), 73-5-25(13), 73-5-25(15),73-5-33(17)73-5-35(18)			

Short explanation of rule/amendment/pepeal and reason(s) for proposing rule/amendment/pepeal:1. Additional square footage to school and more shampoo bowls and chairs will enable the school to better serve the students who attend the barber school.2. Adding Barber Pole verbiage. 3. Modification and defining of rules and regulations.4. Adding Definition of Hair Brading. 5. Adding Complaints, Disciplinary Hearings, Sanctions, Appeal;6. Adding Schedule of Fines;7. Adding Contact Information

Specific legal authority authorizing the promulgation of rule: Mississippi Board of Barber Examiners

List all rules repealed, amended, or suspended by the proposed rule: Rule 1.1 Definitions Hair Braiding, MS Code of 1972,73-5-1;Rule 1.3 Schools MS Code of 1972,73-5-7(4); Rule 1.4 Physical Facilities MS Code of 1972, 73-5-7(4); Rule 1.8 Equipment MS Code of 1972,73-5-7(9); Rule 3.1 Requirements MS Code of 1972, 73-5-7 (4); Rule 4.2 Curriculum MS Code of 1972,73-5-7(4); Rule 4.3Break in attendance/failure to apply for examination MS Code of 1972,73-5-7(4);Rule 5.1 and 5.2 MS code of 1972,73-5-33 (17)Rule 6.1 Barber Shops/Barber Schools Regulation MS Code of 1972,73-5-7(4),73-5-8(5),73-5-11(17), 73-5-25(13), 73-5-25(15),73-5-33(17)73-5-35(18); Rule 8.1,8.2,8.3,8.4,8.5,8.6, MS Code of 1972 73-5-1 et seq.(rev. 2018),Rule 8.7 MS Code Ann. 73-5-1; Rule 9.1 MS Code of 1972 73-5-1 et seq.(rev. 2018).

ORAL PROCEEDING:

Placement of Both Boards under the Mississippi Department of Health

The Board of Barber Examiners does not support the placement of both boards under the MS Department of Health. The Board's position is to remain separate and allow both boards to correct their alleged deficiencies. The PEER report cited the alleged deficiencies and the Board should be allowed to make corrective actions to mitigate.

PEER estimates the net annual cost savings of placing MSBC and Barber Board under MDH was approximately \$141,000. There is no real significant savings. The Board will seek the legislature to raise the fees to be consistent with other states.

PEER did not conduct analysis of cost estimate related to what it would cost the MDH to merger both boards to include salaries, wages and fringes. With the increase in fees, the Board will able to increase the hourly pay rate of inspectors and office staff which is critical. PEER failed to provide the analysis showing what other states pay rate and benefits are compared to Mississippi. PEER only displayed cost savings if the Boards were placed under MDH. No comparisons of our existing budget or operating expenses were conducted by PEER. Furthermore, the Board has contacted other states to develop effective strategies to address issues concerning cost savings and efficient practices.

Consolidation of the Two Boards into on Regulatory Entity

PEER noted that 32 of the 54 states & territories have merged together. PEER failed to indicate or notate calls or emails from those states to provide feedback. There is no feedback from these states to determine its efficiency or effectiveness. PEER made reference to Senate Bill 2647 and how it would address the merging of both boards. PEER did not disclose that Senate Bill 2647 was dead (See Below).

The screenshot shows a web browser window with the URL billstatus.ls.state.ms.us/2022/pdf/history/SB/SB2647.xml. The page title is "Mississippi Legislature 2022 Regular Session" and the main heading is "Senate Bill 2647". Navigation links include "Senate Calendar", "House Calendar", "Main Menu", "Amendments", "Code Sections", and "Additional Information".

Bill Text for All Versions
Committee Substitute
As Introduced

Description: Board of Cosmetology and Barbering; create, and abolish Board of Barber Examiners.

Fiscal Note: No fiscal note conducted

Background Information:
Disposition: Dead
Deadline: General Bill/Constitutional Amendment
Revenue: No
Vote type required: Three/Fifths
Effective date: July 1, 2022

History of Actions:

- 01/17 (S) Referred To Accountability, Efficiency, Transparency
- 01/31 (S) Title Suff Do Pass Comm Sub
- 02/10 (S) Committee Substitute Adopted
- 02/10 (S) Amended
- 02/10 (S) Failed [Vote!](#)

Amendments:
[S] Amendment No 1 (Cmte Sub) **Adopted** [Voice Vote](#)

Under cost saving estimate, PEER reported a net annual cost savings of combining MSBC and Barber Boards to be approximately \$38,000. PEER stated earlier in the report that total cost savings was \$141,000. It is unclear what the total cost savings is based on in this statement.

Again, PEER did not provide the analysis of what it would cost to transfer the existing staff to MDH to include salaries, wages and fringes.

PEER failed to contact other states our size to comparison cost savings and benefits verses liabilities. PEER showed previously in the report comparisons and data but failed to be consistent in their findings throughout the report. The Board disputes the findings of PEER cost savings and alternative structure recommendations.

Recommendations

Here are the following Board responses to findings in this section:

1. Disagree. The Board does not support any form of consolidation of boards.
2. Disagree. Under 2a, House Bill 1263 Line 908 thru 934 outlines the legislator’s position for registered barber requirements in the State of Mississippi. The Board concurs with HB 1263 the language that already exists. 2b. NO. The Board does not support any form of an apprenticeship program. The logistics and amount of documentation required by a registered barber to oversee the program would not be welcome or feasible to private businesses.
3. Disagree. The existing law required the Examiners to conduct testing which is more cost effective and efficient under the special fund agency preview. However, the Board is currently using a third-party National testing company to standardize testing requirements as other states are.
4. Agree. The Board will implement a new form and policy & procedure to include disciplinary actions taken by the Board to gain compliance of underperforming school. Below is the new school strategic plan we intend to use a guide to formulate policies and procedures to address underperforming schools. A disciplinary action process as rules and regulations to govern the process in the event that a school continues to operate below the standards set forth by the Board.

TABLE 2. New School Strategies

Strategy	Approach	Rationale	Common Challenges	Notable Examples	Evidence*
School closure based on persistent low performance	Schools are held to high performance standards. Schools that cannot meet the standards are closed.	Poor-performing schools in a system will either close or improve (motivated by threat of closure). If the school closes, students will attend better schools elsewhere.	<ul style="list-style-type: none"> • Lack of quality options for students to transfer to. • Politics of closure and unavailability of empty facilities can make strategy unsustainable over time. • Poor community engagement practices impede poor-performing schools from closing. • Destabilizing impact of school closure on students and communities. 	Boston, New Orleans, New York City, Oakland, Washington, D.C.	Most studies on school closure find no short-term or long-term positive impacts on test scores for students in the closed schools. Results are more positive when students from closed schools transfer to higher-performing schools or when schools use phase-outs. Test scores for students in welcoming schools are not impacted long-term. The impact on attendance and graduation rates is mixed.

The Board's new underperforming school strategy and disciplinary policy will be adopted and implemented by January 1, 2023.

5. Agree. The Executive Director has already contacted NIC testing company and requested all performance measures data sheets by school and student performance. The forms are in development now and should be in place by December 1, 2022.

6. Disagree. The Board's rules and regulations are currently consistent with the statutory requirements. However, the Board intends to seek legislation to improve and be consistent with other states.

7. Agree. The Board concurs with your assessment.

8. Disagree. 8A. The statutory requirements set are consistent with the rules and regulations. The NIC testing requirements are consistent with the Board's rules and regulations. However, the Board is currently developing a new testing manual in conjunction with the Board. This will bring more consistency to testing and will be placed on website for review. 8b. Agree. The Board will coordinate with NIC to ensure the test is offered in multiple languages to meet the growing trends of diverse communities across Mississippi.

9. Agree. The Board will increase the hours of the inspectors and assign specific counties to inspect set by scheduled timeline. The Board will modify the inspection forms and procedures to avoid arbitrary practices. To achieve the Board's goal of annual inspections, the executive secretary asked the board to consider contracting with the Constables in each county to conduct inspections of barber shops to increase the numbers of inspections. However, the Board will submit a letter to State Attorney General's Office for official opinion concerning the legality of use of constables to perform inspections. Second, if Board approves to utilize Constables, they will develop the policies & procedures to include training the Constables on sanitation enforcement. The Board approved the revision of the inspections both barbershop and schools on October 16, 2022.

10. Agree. The Board concurs with the PEER Committee Assessment. The Board will address the issue with more uniformed process. The Board has already developed disciplinary process to regulate barbers and inspection process to avoid arbitrary practices. The intent is for the new process to be trained and take effect on or after January 1, 2023.

11. Agree. The Board will adhere to the DFA travel guidance and only request per diem in accordance with DFA policy. The Board will adopt and approve new standard operating procedure for Board Members to define what official business warrants per diem requests.

12. Agree. The Board concurs with the PEER Committee Assessment. The Board will adhere to recommendations of PEER and follow DFA policies.

13. Disagree. The Board will follow DFA policies. However, the Board has determined that Chief Inspector and Director of Compliance & Investigations (DCI) will remain at large or statewide due the nature of their duties and responsibilities. They are not pinned as office staff or provided a designated office to conduct their official business. The Board will look at purchasing

software and iPad for each inspector to include the DCI. The Chief inspector and DCI only conduct business at state office because they were not issued any equipment to enter data to produce their reports. The Executive Director will monitor and provide guidance to pinned employees as to their travels. The Board will implement a new approval process for travel to be more efficient with employee travel. The policy will take effect January 1, 2023.

14. Agree. The Board will revise and assign duties to each employee with a performance evaluation accompanied by a policy and procedure. The Board will ensure surety bonds to cover all employees conducting official business of the board. The Executive Director will ensure that employees eligible for PERS contributions are verified and payments made on time to avoid lump sum payments. The Board will incorporate internal control for financial management to avoid the possibility of fraud.

15. Agree. The Board concurs with the PEER Committee Assessment.

16. Agree. The Board concurs with the PEER Committee Assessment. The Board will create an analog system to mirror a records management system (RMS) until the Board can purchase an affordable RMS. The Board will make available any data needed after PEER recommendations to be instituted no later than January 1, 2023. The Board is currently on a DFA waiting list for office space.

17. Agree. The Executive Director has revamped the current office space to create more space for public viewing. The Board will be exploring the use of other state office building to conduct their board meetings and hearings. Alternate location will be identified and approved by board no later than December 1, 2022.

18. Agree.

Appendix A: Fees Charged by the Mississippi State Board of Barber Examiners

In FY 21 and FY 22, The Board submitted a bill for fees to be raised. Both times, the bill died in committee. The fee amounts are updated and must be raised by a reasonable amount to applicable to neighboring states. PEER did not compare Mississippi fees to any other state similar to our state.

Appendix B: Barber Licensing Requirements by State

In this Appendix, PEER shows a comparison by state of licensing requirements but not fees. The Board has made several attempts between 2010 and now to modify the existing requirements to be more consistent. So far, the Board has received limited support from the legislature to meet the requirements across the board.

Appendix C: Barber Board Practical Exam Grading Sheet

The Board concurs with an improved form to address the current issues in the industry.
(EXHIBIT 81)

Appendix D: Practical Exam Grading Sheet

The Board concurs with an improved form to address the current issues in the industry.
(EXHIBIT 81)

Appendix E: Student Pass Rates by School


The Board concurs with an improved form to address the current issues in the industry.

Appendix F: Barber Board Inspection Form

The Inspection form displayed on [redacted] is the form the Board approved for Shops only. Attached is the approved copy of the school inspection form. On October 16, 2022, the board voted to revise the current inspection forms for both schools and shops. These efforts were attempts to address more sanitation and rule requirements.

MISSISSIPPI STATE BOARD OF BARBER EXAMINERS

REPORT OF INSPECTION



President
Vice President
Executive Secretary
and
Board Members
Herby Approved
Certificate
of Reciprocity
"In The Year Of Our Lord"
2022

School Name/Center Name <i>Highwood Cuts</i>		Date of Inspection <i>24 Aug 2022</i>	License #
County <i>Pinola</i>	Address <i>123 Public Square Batesville, MS 38606</i>	Phone # <i>662-710-6747</i>	Email
<input type="checkbox"/> Approved <input type="checkbox"/> Pending (Reason)		<input checked="" type="checkbox"/> Unapproved (Why) <i>NON COMPLIANT CE w/ Rules & Regs. which SPREADING SCALD</i>	

	Yes	No	Yes	No	Yes	No
Hot and Cold Running Water	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sterilization Instrument(s)	<input checked="" type="checkbox"/>	Local Privilege License Posted	<input type="checkbox"/>
Secure Waste Container(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brushes/Instruments Stored	<input checked="" type="checkbox"/>	Rules/Regulations Posted	<input type="checkbox"/>
Container for Soiled Towel(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sytic (Powder or Liquid)	<input checked="" type="checkbox"/>	Barber School License Posted	<input checked="" type="checkbox"/>
Well Lighted at Work Station	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Barbicide Jar w/Solution	<input checked="" type="checkbox"/>	Student Work Posted	<input type="checkbox"/>
Ventilation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Clean Floors/Smooth Surface	<input checked="" type="checkbox"/>	Accurate Attendance Record	<input checked="" type="checkbox"/>
Sanitation/Disinfecting Method	<input checked="" type="checkbox"/>	<input type="checkbox"/>	External Sign/Barber Pole	<input type="checkbox"/>	Enrollment Records Accurate	<input type="checkbox"/>
Instructor Name Tags	<input type="checkbox"/>	<input type="checkbox"/>	School Rules Posted	<input type="checkbox"/>	Practical Exam Records Kept	<input type="checkbox"/>
Minimum Floor Space (Square Feet)	<input type="checkbox"/>	<input type="checkbox"/>	Time Clock/Computerized Recording	<input type="checkbox"/>	Practical Exam Given	<input type="checkbox"/>
Classroom to Seat at Least 20	<input type="checkbox"/>	<input type="checkbox"/>	Grading Standard	<input type="checkbox"/>	Progress Books Current Within Week	<input type="checkbox"/>
At Least 10 Working Chairs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Number of Shampoo Bowls	<input type="checkbox"/>	Students in Uniform	<input type="checkbox"/>
Recitation Room Sealing Area	<input type="checkbox"/>	<input type="checkbox"/>	10 Mirror/Chair Work Stations	<input type="checkbox"/>	Number of Instructors on Duty	<input type="checkbox"/>
Instructor's Name	<input type="checkbox"/>	<input type="checkbox"/>	Number of Students Present	<input type="checkbox"/>	Total Number of Students Enrolled	<input type="checkbox"/>

Instructor's Name: *Cameron Wilks*

NARRATIVE
*MALE RESTROOM - NO SECURE
 FEMALE RESTROOM - WIPED CONTAINERS
 VERY UNSANITARY (SEE PHOTOS) in Classroom/ Floor OPERATIONS AREA
 NO STUDENTS PRESENT
 MR. WILKS WAS ADVISED OF NON-COMPLIANCE OF LAWS AND RULES & REGULATIONS
 GIVE 30 DAYS TO MAKE CORRECTIONS AND SUMMONS TO BOARD HEARINGS
 SET FOR OCTOBER 6 2022
 PAD - MUST BE IMPROVED*

Print Name of School Rep to Acknowledge Receipt of Report <i>STEVEN JACKSON</i>	Signature <i>[Signature]</i>	Date <i>08/24/2022</i>
------------------------------------------------------------------------------------	---------------------------------	---------------------------

Form MS 948-01

SOURCE: Response from the Mississippi Board of Barber Examiners.

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James F. (Ted) Booth, Executive Director

Legal and Reapportionment

Barton Norfleet, General Counsel

Ben Collins

Administration

Kirby Arinder

Stephanie Harris

Gale Taylor

Quality Assurance and Reporting

Tracy Bobo

Hannah Jane LeDuff

Performance Evaluation

Lonnie Edgar, Deputy Director

Jennifer Sebren, Deputy Director

Kim Cummins

Matthew Dry

Matthew Holmes

Drew Johnson

Billy Loper

Debra Monroe-Lax

Taylor Mullins

Meri Clare Ringer

Sarah Williamson

Julie Winkeljohn

Ray Wright