

J. "Navajo Landmarks" means those cultural properties that are of significance to the entire Navajo Nation.

K. "Navajo Register" means the Navajo Nation Register of Cultural Properties.

L. "Object" means a product of human activity or an item given significance or meaning by human activity or belief.

M. "Place" refers to an identifiable location at which an event occurred or a location given significance by human action or belief.

N. "Preservation Officer" means the Navajo Nation Historic Preservation Officer, who is the Director of the Navajo Nation Historic Preservation Department.

O. "Site" means the location of the physical remains of human activity.

P. "Sponsor" means the agency official or the official in a private capacity who has decision-making authority over a particular undertaking.

Q. "Structure" means construction resulting from human activity, the primary purpose of which is other than to provide shelter.

R. "Tribal Archaeologist" means the Navajo Nation Archaeologist, who is the director of the Archaeology Department.

S. "Undertaking" means any project, activity or program that can result in changes in the character or use of cultural properties, if any such cultural properties are located in the area of potential effects. The project, activity or program must be under the direct or indirect jurisdiction of a Sponsor. Undertakings include new and continuing projects, activities or programs not previously considered under the authority of this Act.

History

CMY-19-88, May 3, 1988.

§ 1004. Historic Preservation Department

The Navajo Nation Historic Preservation Department (hereafter referred to as the "Department") within the Division of Natural Resources shall be the Navajo Nation's agency responsible for the protection, preservation and management planning for the Navajo Nation's cultural resources. The Department shall be directed by the Navajo Nation Historic Preservation Officer (hereafter referred to as the "Preservation Officer") who shall advise the President of the Navajo Nation, the Navajo Nation Council, the divisions, departments, programs, agencies, authorities, enterprises and any other instrumentalities of the Navajo Nation, the federal, state and local governments, private organizations and individuals on matters pertaining to cultural resource preservation to achieve the goals of this Act on Navajo lands, and on lands in which the Navajo people have a historical interest. The Department shall conduct such other activities authorized in accordance with the Department's approved Plan of Operation.

History

CMY-19-88, May 3, 1988.

§ 1005. Archaeology Department

The Navajo Nation Archaeology Department (hereafter referred to as the "Archaeology Department") within the Division of Natural Resources shall be the Navajo Nation's agency for providing cultural resources services to project sponsors. The Archaeology Department shall be directed by the Navajo Tribal Archaeologist (hereafter referred to as the "Tribal Archaeologist"), who shall be responsible for organizing and providing cultural resource services to sponsors, including instrumentalities of the Navajo Nation, Navajo people, other agencies and industry in need of cultural resources services both on and off the Navajo Reservation. The Tribal Archaeologist shall also organize and implement, in consultation with the Preservation Officer, a program of archaeological and anthropological research designed to enhance and benefit the Navajo Nation's cultural resources. The Archaeology Department shall conduct such other activities authorized in accordance with its approved Plan of Operation.

History

CMY-19-88, May 3, 1988.

§ 1006. Navajo Nation Museum

The Navajo Nation Museum shall be the repository for all cultural resources collected on Navajo lands. The Navajo Nation Museum shall conduct such other activities authorized in accordance with its approved Plan of Operation.

History

CMY-19-88, May 3, 1988.

See also ACAP-63-88, approving the Navajo Nation Museum's Plan of Operation.

§ 1011. Navajo Nation register of cultural properties and cultural landmarks

A. The Preservation Officer shall create, expand, maintain and administer a Navajo Nation Register of Cultural Properties (hereafter referred to as the "Navajo Register") comprising buildings, districts, objects, places, sites and structures significant in Navajo Nation history, architecture, archaeology, engineering and culture.

B. The Preservation Officer shall create, expand, maintain and administer a program for designation of Navajo Nation Cultural Landmarks (hereafter referred to as "Navajo Landmarks"), which shall include those cultural properties of significance to the entire Navajo Nation.

C. Cultural properties on Navajo lands shall be deemed to be included in the Navajo Register if, as of the date of enactment of the Navajo Nation

Cultural Resources Protection Act, they are:

1. Historic properties listed in the National Register of Historic Places;
2. Historic properties designated National Historic Landmarks;
3. Natural areas designated National Natural Landmarks;
4. Cultural properties included in the National Park System at Navajo National Monument, Canyon de Chelly National Monument, and Chaco Canyon National Historical Park; and
5. Archaeological sites designated as "Chaco Protection Sites" pursuant to P.L. 96-550.

D. The Preservation Officer shall establish a program to locate, inventory, and evaluate cultural resources on Navajo lands and to list all such resources as may be eligible in the Navajo Register and to designate such properties as may qualify as Navajo Landmarks.

History

CMY-19-88, May 3, 1988.

United State Code

Chaco Culture National Historic Park, see 16 U.S.C.A. § 410ii *et seq.*

§ 1021. Protection of cultural properties

In order to ensure the protection of the cultural properties of the Navajo Nation, the sponsor of any undertaking must obtain the approval of the Preservation Officer prior to implementation or authorization of any undertaking by the sponsor.

History

CMY-19-88, May 3, 1988.

§ 1031. Prohibited activities

No cultural property may be visited or investigated on Navajo lands, except those cultural properties designated as open to the public within the boundaries of a Navajo Nation Park or a National Park or Monument; nor may any person alter, damage, excavate, deface, destroy or remove, any cultural properties on Navajo lands. No person may sell, purchase, exchange or transport cultural resources from Navajo lands. No person may engage in ethnographic research on Navajo lands, except that such activities may be conducted under the authority of and in accordance with the stipulations of a valid Navajo Nation Cultural Resources Permit issued by the Preservation Officer under the authority of § 1032.

History

CMY-19-88, May 3, 1988.

§ 1032. Permits

A. There shall be three classes of permits.

1. *Class A* permits shall be issued for activities involving casual visitation and inspection of cultural properties.

2. *Class B* shall be issued for cultural resource inventory activities involving no collection or disturbance of cultural resources.

3. *Class C* shall be issued for cultural resource investigations involving alteration, collection, excavation, removal or any disturbance of cultural resources or for ethnographic research.

B. Permits shall be issued only on a case-by-case basis, except that an organization qualifying for a Class 1 or 3 under Navajo preference pursuant to the Navajo Nation Code may be granted blanket Class B permits. The Preservation Officer may waive this requirement whenever he or she finds that issuance of a blanket Class B permit is in the best interests of the Navajo Nation and its people.

C. Permits shall not be issued for periods to exceed 12 months, except when necessary to cover the duration of a single project.

History

CMY-19-88, May 3, 1988.

See 5 N.N.C. § 201 *et seq.* Navajo Nation Business Opportunity Act.

Revision Note. Slightly reworded for purpose of clarity.

§ 1033. Exceptions

A. The prohibition against visitation of cultural resources does not apply to enrolled members of the Navajo Nation or to Navajo Nation employees engaged in official activities.

B. The prohibitions against alteration, collection, disturbance, excavation or removal of cultural resources or collection of ethnographic data do not apply to:

1. Navajo traditional practitioners engaging in activities directly relating to the practice of traditional Navajo religion; or

2. To Navajo Nation employees engaged in official business, relating to cultural resources management activities approved in accordance with Department rules and procedures.

History

CMY-19-88, May 3, 1988.

§ 1034. Permit requirements

Any person proposing to visit or inspect cultural resources, undertake cultural resources inventory, alter, collect, excavate or remove cultural resources or engage in ethnographic research, who is not excepted pursuant to § 1033 of this Act, shall apply to the Preservation Officer for a Navajo Nation Cultural Resources Permit for the proposed activity. The Preservation Officer may issue a permit to any qualified individual, subject to appropriate terms and conditions.

History

CMY-19-88, May 3, 1988.

§ 1035. Suspension of permits

A. The Preservation Officer may suspend a permit without cause upon determining that continuation of activities under a permit would not be in the best interests of the Navajo Nation or its people. Such a suspension is made without liability to the Navajo Nation, its agents or employees. Such a suspension shall not prejudice the ability of the permit holder to hold or obtain other permits.

B. The Preservation Officer may suspend a permit for cause upon determining that any term or condition of a permit is not being met by a permit holder.

History

CMY-19-88, May 3, 1988.

§ 1036. Revocation of permits

A. The Preservation Officer may revoke a permit without cause upon determining that continuation of a permit is not in the interests of the Navajo Nation or its People. Such a revocation is made without liability to the Navajo Nation, its agents and employees. Such revocations shall not prejudice the ability of the permit holder to hold or obtain other permits.

B. The Preservation Officer may revoke a permit for cause upon finding that:

1. Any of the terms or conditions of a permit have been willfully violated;
2. A permit-holder has engaged in activities prohibited by this Act; and
3. A permit-holder has engaged in activities that resulted in the prior suspension of a permit.

History

CMY-19-88, May 3, 1988.

§ 1037. Criminal penalties

Any Indian person violating the provisions of § 1031 of this Act shall be subject to the following criminal penalties.

A. Any Indian person who:

(1) Engages in cultural resources inventory activities except under the authority of a Class B permit, or

(2) Who alters, collects, damages, destroys, excavates or removes cultural resources except under the authority of a Class C permit or under the exception provided by § 1033 of this Act, shall upon conviction, be guilty of a misdemeanor and subject to punishment of up to one year in jail and a fine of up to one thousand dollars (\$1000).

History

CMY-19-88, May 3, 1988.

§ 1038. Civil assessments

Individuals violating the prohibitions in § 1031 or § 1037 of this Act shall be subject to civil assessments. Civil assessments shall be imposed by the Resources Committee of the Navajo Nation Council (hereafter referred to as the "Resources Committee"), in accordance with procedures adopted by the Resources Committee expressly for this purpose. The Resources Committee shall adopt such procedures within 90 days of the adoption of this Act.

A. Violation of the provisions of § 1031 or § 1037 of this Act by any person who does business on the Navajo Nation shall be grounds for withdrawal of the privilege of doing business within the Navajo Nation. The Resources Committee shall consider whether or not to recommend to the Navajo Nation Council that any individual found to have violated § 1031 or § 1037 shall lose the privilege of doing business within the Navajo Nation.

B. Any non-Indian who visits or inspects cultural resources on Navajo lands without a valid Class A permit shall be committing trespass. Such individuals determined to be in trespass after a hearing before the Resources Committee of the Navajo Nation Council, shall be assessed a civil forfeiture of not more than one hundred dollars (\$100.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. For the purposes of this part, each visit to or inspection of a cultural resource on Navajo lands shall be considered a separate offense. The Resources Committee may, at its discretion, recommend to the Navajo Nation Council that any person found to be in trespass be excluded from the Navajo Nation.

C. Any non-Indian who engages in cultural resources inventory activities on Navajo lands, except under the authority of a valid Class B permit shall be committing trespass. Any individual determined to be in trespass after a hearing before the Resources Committee, shall be assessed a civil forfeiture of

not more than one thousand dollars (\$1000) for each offense. For the purposes of this part, each inventory on Navajo lands shall be considered a separate offense. The Resources Committee shall consider whether or not to recommend to the Navajo Nation Council that any individual found to have violated this prohibition be excluded from the Navajo Nation.

D. Any individual within Navajo lands who alters, collects, damages, defaces, destroys, excavates, removes or sells cultural resources or who collects ethnographic data without a valid Class C permit, or as permitted under the exceptions detailed in § 1033, or who engages in activities in violation of the terms and conditions of a valid permit shall be liable, after a hearing before the Resources Committee, to the Navajo Nation for civil damages as determined by the Resources Committee as follows:

1. Assessment of Actual Damages. The Resources Committee shall impose the civil assessments based upon actual damages in accordance with "Standards for Assessing Damages to Cultural Properties" that the Resources Committee shall adopt expressly for this purpose. The "Standards for Assessing Damages to Cultural Resources" shall include, but need not necessarily limit consideration to:

- a. Full costs of restoration of the cultural resource;
- b. Enforcement and administrative costs associated with the civil action;
- c. Costs of disposition of cultural resources, including as appropriate, costs of curation in perpetuity;
- d. Costs associated with documentation, testing and evaluation of the cultural resource in order to assess the characteristics of the cultural resource and plan for its restoration; and
- e. Costs of any additional mitigation measures the Resources Committee deems appropriate to implement.

2. Assessment of Treble Damages. In addition to the actual damages, the Resources Committee may, at its discretion, assess damages of up to three (3) times the amount of the actual damages.

3. Seizure of Equipment and Cultural Resources. The citing officer shall seize all cultural resources in the possession of any individual cited under § 1031 of this Act, together with any other property used for or related to the violation in the possession of the individual cited, as the officer may deem necessary to obtain payment of any civil assessment.

4. Forfeiture of Cultural Resources and Property. After hearing before the Resources Committee:

- a. Any cultural resources obtained in violation of this Act shall be forfeited to the Navajo Nation;
- b. Any other property seized in accordance with § 1038(D)(3),

shall be released to the owner upon timely payment of any related civil assessments; and

c. Any seized property shall be forfeited to the Navajo Nation if the assessment has not been paid within 15 days of the hearing at which the civil assessment was levied or pursuant to this Act, whichever is later. Any such forfeiture shall be limited to the amount of the civil assessment. Any property remaining after forfeiture of property up to the value of the assessment shall be returned to the owner.

E. Civil assessments imposed under this part shall be reserved solely for the purposes of restoring damaged cultural resources and for meeting the purposes of this Act and shall be deposited in the Historic Preservation Revolving Account for disbursement in accordance with Navajo Nation budgetary procedures.

F. Any individual assessed by the Resources Committee pursuant to § 1038 of this Act shall have the right to appeal the decision of the Resources Committee to the Navajo Nation District Court as follows:

1. Any appeal must be filed in writing with the Navajo Nation District Court within 30 days of notification of the action of the Resources Committee;

2. The review by the Navajo Nation District Court shall be limited to:

a. Ensuring that the appellant received due process of law; and

b. Ensuring that any rights the individual may have under the Navajo Nation Bill of Rights and the Indian Civil Rights Act (25 U.S.C. § 1301-1341) were observed; and

3. Consideration by the Navajo Nation District Court shall be limited to review of the administrative record created before the Resources Committee during the hearing before it.

History

CMY-19-88, May 3, 1988.

Cross References

See generally, Navajo Nation Civil Trespass Act, 21 N.N.C. § 2201 *et seq.*

§ 1041. Appeals

A. Any administrative action taken by the Preservation Officer pursuant to this Act which is a final action made on behalf of the Navajo Nation, may be appealed by any party directly and adversely affected by such action. Notice of appeal must be filed within 30 days of notification of the Preservation Officer's action.

B. Within 90 days of the adoption of this Act, the Preservation Officer shall establish regulations governing appeals of administrative decisions reached under the authority of this Act. The regulations shall specify the procedures governing appeals, identify who may appeal, detail notification requirements, establish time limits for action on the part of all parties, enumerate documentation requirements, and include any other elements necessary to carry out the purposes of this Section.

C. Any appellant adversely affected by the outcome of an appeal under regulations promulgated pursuant to § 1041(B) of this Act shall be entitled to review of the action in Navajo Nation District Court as follows:

1. Notice of an appeal under the provisions of this part must be filed with the Navajo Nation District Court within 30 days of receipt of notice of a final action by the Division of Natural Resources;

2. Judicial review by the Navajo Nation District Court shall be limited to:

a. Ensuring that the appellant received due process of law;
and

b. Ensuring that all rights of the appellant under the Navajo Nation Bill of Rights and the Indian Civil Rights Act (25 U.S.C. 1301-1341) were observed.

3. Judicial review by the Navajo Nation District Court shall be limited to review of the administrative record created during the administrative appeals process.

History

CMY-19-88, May 3, 1988.

§ 1051. Regulations, procedures, standards and guidelines

The Preservation Officer shall develop, promulgate, publish and implement such regulations, procedures, standards and guidelines necessary to implement the requirements of or to achieve the purpose of this Act.

History

CMY-19-88, May 3, 1988.

§ 1061. Severability

If any provision of this Act or the application thereof to any person, court or circumstances is held invalid by a Navajo Nation or federal court, the invalidity shall not affect other provisions of this Act which can be given effect without the invalid provision or application and to this end, the provisions of this Act are severable.

History

CMY-19-88, May 3, 1988.

Title 20

Professions and Occupations

Chapter 1. Barbers and Barbershops

Subchapter 1. Generally

§ 1. Definitions

For the purposes of this Chapter and unless otherwise required by the context:

A. "Board" shall mean the Advisory Board of Barber Examiners.

B. "Certificate" shall mean a certificate of registration entitling the person to whom issued to practice, or a barber school or barbershop to be operated.

C. "Barbershop" shall mean any place, shop or establishment wherein the practice of barbering is engaged in or carried on as a business, trade, or profession.

D. "Barber school" or "barber college" shall mean any place, shop, or establishment where the practices, fundamentals, theories or practical applications of barbering are taught for pay, whether direct or indirect.

E. "Barbering" shall mean any one or any combination of the following practices done upon the upper part of the human body for cosmetic purposes; and not for the treatment of diseases or physical or mental ailments; and when done for payment either directly or indirectly, or without payment for the general public; upon a male or female: (1) shaving or trimming of the beard or cutting the hair; (2) giving facial and scalp massage or treatments with oils, creams, lotions or other preparations, either by hand or mechanical appliances; (3) singeing; (4) shampooing or dyeing the hair; (5) applying tonics; (6) applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to the scalp, face, neck or upper part of the body.

F. "Communicable disease" shall mean an illness due to an infectious agent or its toxic products which is transmitted directly or indirectly to a healthy person from an affected person, animal or arthropod or through the agency of an intermediate host, vector or the inanimate environment.

G. "Health advisor" shall mean the United States Public Health Service, Window Rock Area Medical Officer in Charge or his or her designated representative.

History

CJY-78-68, July 11, 1968.

§ 2. Persons exempt

The following persons are exempt from the provisions of this Chapter while in the discharge of their professional duties:

- A. Persons licensed to practice medicine and surgery.
- B. Licensed physicians and surgeons and commissioned medical or surgical officers of the United States Public Health Service.
- C. Registered nurses.
- D. Undertakers and morticians.
- E. Establishments, and persons licensed under the Cosmetology Statute (Chapter 3 of this Title).
- F. Barber schools operated and conducted by any institution of learning as a part of their regular curriculum. Provided, however, that hours of study completed in such institutional school shall be counted toward the hours of study required by this Chapter.

History

CJY-78-68, July 11, 1968.

Subchapter 3. Board of Barber Examiners

§ 41. Membership of Board

There shall be appointed by the President of the Navajo Nation a board of five members which shall be known as the Barber Examiners. The members of the Board shall be selected for their interest in developing a barbering profession of high standards and efficiency within the Navajo Nation. The Board shall have the following representation:

- A. One member shall be chosen from the staff of the United States Public Health Service.
- B. One member shall be a member of the Navajo Nation who is a registered barber.
- C. The other three members shall be members of the Navajo Nation who may be, but need not be registered barbers.

History

CJN-43-71, June 1, 1971.

CJY-78-68, July 11, 1968.

§ 42. Term of office

Two members of the Board shall be appointed for a term of one year, two members shall be appointed for a term of two years, and one member shall be appointed for a term of three years. As each member's term expires, and thereafter, members shall be appointed for terms of three years.

History

CJN-43-71, June 1, 1971.

CJY-78-68, July 11, 1968.

§ 43. Election of officers; meetings

The Board shall organize by electing a president, vice-president, and secretary from among its members. The Board shall meet semi-annually on the second Monday of February and the second Monday of August, and at such other times as are necessary in order to efficiently enforce this Chapter.

History

CJY-78-68, July 11, 1968.

§ 44. Quorum

A majority of the Board shall constitute a quorum and may perform and exercise all the duties and powers devolving upon it.

History

CJY-78-68, July 11, 1968.

§ 45. Record of proceedings

The secretary of the Board shall keep a record of its proceedings, a register of persons registered as barbers and apprentices, showing the name, place of business and residence of each and the date and the number of the certificate of each, and a record of all licenses or certificates issued, refused, renewed, suspended or revoked. Its records shall be open to public inspection at all reasonable times. The Board shall annually, on or before the first day of July, make a report to the Government Services Committee of the Navajo Nation Council of all its official acts during the preceding year.

History

CJY-78-68, July 11, 1968.

§ 46. Removal

The President of the Navajo Nation shall have the power to remove any member of the Board for incompetency, gross immorality, disability, for any abuse of his or her official power or for any other sufficient cause.

History

CJY-78-68, July 11, 1968.

§ 47. Vacancies

Any vacancies that shall occur shall be filled by an appointment within 90 days after the occurrence of the vacancy. Members appointed to fill vacancies caused by death, resignation or removal, shall serve only for the unexpired term of their predecessors.

History

CJY-78-68, July 11, 1968.

§ 48. Powers and duties

A. A member of the Board, or its agents or assistants, shall have the authority to enter upon and inspect a barbershop or barber school at any time during business hours. The Board may make reasonable rules and regulations for the administration of the provisions of this Chapter. A copy of the rules, regulations and sanitary requirements adopted by the Board shall be furnished by the Board to the owner or manager of each barbershop, barber school or barber college and such copy shall be posted in a conspicuous place in each barbershop, barber school or barber college.

B. The Board shall act as mediator or arbitrator in any controversy or issue relating to barbering which arises between or among barbers, either as individuals or as organized groups.

C. The Board shall have the full power to conduct hearings pursuant to this Chapter and all future regulations of the Board; to issue subpoenas and demand attendance at hearings, and to levy fines and to issue orders and judgments requiring the payment of fines or the compliance with this Chapter and regulations of the Board, and the doing of any and all acts pursuant to this Chapter and regulations of the Board deemed necessary to conduct a hearing or investigation.

History

CJY-78-68, July 11, 1968.

Cross References

Display of certificates, see 20 N.N.C. § 88.

Notice and hearings, persons accused of violations, see 20 N.N.C. § 201.

Penalties and payment of fines, see 20 N.N.C. § 208 *et seq.*

§ 49. Findings; appeal

The decision of the Board shall be final and binding. Provided, however, that the decision of the Board may be appealed to the Navajo Nation court system pursuant to the Navajo Rules of Civil Procedure as enacted by the

Judicial Branch of the Navajo Nation. Appeals to the Navajo Nation court system shall be in the form of *de novo* proceedings.

History

CJY-78-68, July 11, 1968.

Cross References

Courts and procedure, see Title 7 of the Navajo Nation Code.

§ 50. Board of Barber Examiners' Fund

A. All monies received by the Board under this Chapter shall be paid to the secretary, who shall give a receipt therefor.

B. At the end of each month the secretary shall report to the Navajo Nation Controller the total amount received under this Chapter from all sources and shall deposit the amount with the Navajo Nation Controller, who shall place it in a special fund known as the Navajo Board of Barber Examiners' Fund.

C. Ninety percent (90%) of all monies deposited in the Fund shall constitute a separate fund for the maintenance of the Board and for the enforcement of this Chapter, and the remainder shall be credited to the general fund of the Navajo Nation.

History

CJY-78-68, July 11, 1968.

Subchapter 5. Barber Qualifications

§ 81. License requirements

On and after the effective date of this Chapter, it shall be unlawful:

A. To practice barbering on the Navajo Nation without a certificate of registration as a registered barber issued pursuant to the provisions of this Chapter by the Board of Barber Examiners.

B. To act or attempt to act as a barber apprentice without a current certificate of registration as a registered apprentice issued by the Board of Examiners.

C. For any person, association of persons, or corporation to operate a barbershop, barber school or barber college, unless it is at all times operated under the personal supervision and management of a registered barber.

D. For any person, association of persons, or corporation to employ or engage as an associate any person to engage in the practice of barbering as herein defined unless such person shall display a currently valid certificate of registration as a registered apprentice or as a licensed barber.

E. For any person, association of persons, or corporation to operate a barbershop on the Navajo Nation without having obtained an annual establishment license, which license shall at all times be posted in a conspicuous place in the shop. The license shall not be transferable and shall be valid only for the place and location stated in the license.

F. For any person, firm or corporation to open or establish a barbershop on the Navajo Nation without first having had the shop inspected and approved by the health advisor.

History

CJY-78-68, July 11, 1968.

§ 82. Qualifications

Any person shall be qualified to receive a certificate of registration or practice as a registered barber:

- A. Who is a citizen of the United States of America;
- B. Who is qualified under the provisions of Subchapter 3 of this Chapter;
- C. Who is at least 18 years of age;
- D. Who is of good moral character and temperate habits;
- E. Who has practiced as a registered apprentice for a period of 18 months under the immediate personal supervision of a registered barber; and
- F. Who has satisfactorily passed an examination conducted by the Board to determine his or her fitness to practice barbering.

History

CJY-78-68, July 11, 1968.

§ 83. Registered barbers transferring to the Navajo Nation

Any person who is at least 18 years of age and of good moral character and temperate habits and who is a citizen of the United States of America and has a license or certificate of registration as a practicing barber from a state or country which has substantially the same or higher requirements for registering barbers than are required by this Chapter or who can prove by sworn affidavit that he or she has practiced as a barber for a period of at least five years prior to making application on the Navajo Nation shall, upon filing an application and payment of the required fee, be granted permission to take an examination to determine his or her fitness to receive a certificate of registration to practice barbering. Should he or she fail to pass the examination he or she may file a new application accompanied by the required fee and take another examination if he or she desires. In no event will he or she be permitted to practice barbering until such time as he or she has passed the satisfactory examination and has received the certificate of registration as a registered barber.

History

CJY-78-68, July 11, 1968.

Cross References

Fees, see 20 N.N.C. § 91.

§ 84. Apprentice qualifications

A. Any person shall be qualified to receive a certificate of registration as a registered apprentice:

1. Who is a citizen of the United States of America;
2. Who is at least sixteen and a 16 1/2 years of age and who is of good moral character and temperate habits; and
3. Who has satisfactorily passed an examination conducted by the Board to determine his or her fitness to practice as a registered apprentice.

B. No registered apprentice may independently practice barbering, but may, as an apprentice, do any and all of the acts constituting the practice of barbering under the immediate supervision of a registered barber. Only one such apprentice shall be employed in any shop; provided, however, that two apprentices may be employed in a shop of six or more registered barbers.

C. Any apprentice registered under the provisions of this Chapter, who fails to satisfactorily pass an examination conducted by the Board must continue to practice as an apprentice for an additional six months before he or she is entitled to take the examination again for a registered barber and should he or she fail to pass the second examination he or she shall cease to practice barbering on the Navajo Nation until such time as he or she has satisfactorily passed an examination conducted by the Board.

History

CJY-78-68, July 11, 1968.

§ 85. Registered apprentices transferring to the Navajo Nation

A. Any apprentice who is at least 16 1/2 years of age and of good moral character and temperate habits and who is a citizen of the United States of America, and has a valid and unrevoked certificate of registration as an apprentice in a state or country which has substantially the same requirements for registering apprentices as provided by this Chapter, shall, upon payment of the required fee be granted permission to take an examination to determine his or her fitness to receive a certificate of registration as an apprentice.

B. Should he or she pass the required examination, a certificate of registration as a registered apprentice shall be issued to him or her and the time spent under such previous apprenticeship program shall be credited upon

the period of apprenticeship required by this Chapter as a qualification to take the examination to determine his or her fitness to receive a certificate of registration as a registered barber.

History

CJY-78-68, July 11, 1968.

§ 86. Application

Any person who desires to practice barbering, or to practice as an apprentice barber shall file with the secretary of the Board of Barber Examiners a written application under oath on a form prescribed by the Board, together with two 5"x 3" signed photographs of the applicant, and satisfactory proof that applicant is of good moral character, and also furnish the board with a certificate from a licensed physician showing that applicant is free from any contagious and infectious or communicable disease, together with results of laboratory tests for syphilis and tuberculosis, which certificate shall not be dated more than 10 days prior to the date of application for registration.

History

CJY-78-68, July 11, 1968.

§ 87. Examinations

A. The Board shall conduct examinations for applicants for certificates of registration to practice as a registered apprentice or registered barber at least two times each year at several locations around the Navajo Nation fixed and published in advance by the Board.

B. Such examinations shall include a practical demonstration by each applicant as well as a written and oral test of the applicants' knowledge of the subjects required to be taught at schools of barbering. The practical examination shall count for sixty percent (60%), and the written and oral examinations for forty percent (40%).

C. A certificate to practice shall be issued to each applicant who shall satisfactorily pass an examination with an average grade of not less than seventy-five percent (75%), and shall possess the other qualifications required by law.

History

CJY-78-68, July 11, 1968.

Cross References

Qualifications to receive certificate of registration, see 20 N.N.C. § 82.

§ 88. Display of certificates

Every holder of a certificate of registration shall display it in a conspicuous place at or near his or her work chair. Sanitation rules and ordinances shall be displayed in a conspicuous place within the barbershop.

History

CJY-78-68, July 11, 1968.

§ 89. Renewal of certificates

Every registered barber, every registered apprentice, and every owner of a barbershop, barber school or barber college, shall annually, on or before the first day of July of each year, renew his or her certificate of registration, establishment license or permit and pay the required fee. Upon applying for a renewal certificate every registered barber or apprentice shall furnish the Board with a medical certificate as in § 86 of this Subchapter. Every certificate of registration, establishment license, or permit which has not been renewed as herein required in any year, shall expire on the first day of August in that year. A registered barber or registered apprentice whose certificate of registration has expired may have his or her certificate restored upon payment of the required fee. Any registered barber or apprentice who has been absent from the practice of barbering for a period of over three years must retake and satisfactorily pass the examination for barber or apprentice, respectively, before issuance of a new certificate of registration.

History

CJY-78-68, July 11, 1968.

Cross References

Fees for renewal certificates or permits, see 20 N.N.C. § 91.

§ 90. Revocation of certificates

The Board shall either refuse to issue a renewal or shall suspend or revoke any certificate of registration for any one or combination of the following causes:

A. Conviction of a felony shown by certified copy of the record of the court of conviction, or conviction of a misdemeanor shown by certified copy of the record of the court of conviction, which in the opinion of the Board shows an unfitness to practice barbering.

B. Malpractice or incompetency.

C. Continuing to practice barbering while knowingly afflicted with an infection or communicable disease.

D. Advertising by means of knowingly false or deceptive statement(s).

E. Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit-forming drugs.

F. Immoral or unprofessional conduct.

G. Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or for any other thing of value or by fraudulent misrepresentations.

H. Willful failure to display certificate of registration or copy of the sanitation rules as provided in § 88 of this Subchapter.

I. Violation of any of the sanitary regulations promulgated by the Board of Barber Examiners and the health advisor for the regulation of barbershops, barber schools and barber colleges.

J. Owning, operating, or managing a barber school or a portion thereof in which the practice of barbering is carried on, unless at each entrance to such school is displayed a sign in letters not less than eight inches in height indicating to the public that the school, place, or establishment is a barber school and the work therein is done by students exclusively.

K. Owning, managing, or operating a barbershop unless there is displayed clearly visible at the main entrance thereto a sign indicating that it is a barbershop.

History

CJY-78-68, July 11, 1968.

§ 91. Fees

The Board of Barber Examiners shall charge and collect the following fees in advance:

A. For examination of an applicant to practice as a barber: Fifteen dollars (\$15.00).

B. For issuance of a certificate to practice as a barber: Ten dollars (\$10.00).

C. For renewal of a certificate to practice as a barber: Five dollars (\$5.00).

D. For restoration of an expired certificate to practice as a barber: Ten dollars (\$10.00).

E. For the examination of an applicant to practice as an apprentice barber: Ten dollars (\$10.00).

F. For issuance of a certificate as an apprentice barber: Five dollars (\$5.00).

G. For renewal of a certificate as an apprentice barber: Five dollars (\$5.00).

H. For restoration of an expired certificate to practice as an apprentice

barber: Ten dollars (\$10.00).

I. For annual establishment fee to be paid by each shop owner: Five dollars (\$5.00).

J. Each application to open or establish a barbershop on the Navajo Nation shall be accompanied with a fee of one hundred dollars (\$100.00) to cover expenses of inspection which shall be retained by the Board and deposited as other fees.

K. A duplicate license certificate or permit will be issued upon the filing of a statement covering the loss of a license, verified by the oath of the applicant, and submitting the signed photograph of applicant, and the payment of a fee of one dollar (\$1.00) for the issuance of a duplicate. Each duplicate shall have the word "Duplicate" stamped across the face thereof, and will be the same number as the lost original.

History

CJY-78-68, July 11, 1968.

Cross References

Board of Bar Examiners' Fund, see 20 N.N.C. § 50.

Subchapter 7. Licensing of Barbershops

§ 131. Licensing requirements

No barbershop shall be licensed and approved by the Board unless:

A. It is located in separate quarters, or if located in less than the whole of a single building, the quarters occupied are separated from the remainder of the building by solid walls reaching from floor to ceiling, but a barbershop and a beauty shop may be located in the same room or quarters;

B. It has running hot and cold water therein;

C. It conforms to and complies with the rules and regulations promulgated by the Board; and

D. There is displayed at the main entrance thereto a sign clearly indicating that it is a barbershop.

History

CJY-78-68, July 11, 1968.

Subchapter 9. Regulation of Barber Schools

§ 161. Barber schools—Admission requirements

No barber school shall be licensed and approved by the Board to operate

as such unless it requires as a prerequisite to admission that the applicant:

- A. Be more than 16 1/2 years of age;
- B. Be of good moral character and temperate habits;
- C. Furnish a diploma showing graduation from an eighth grade grammar school or have an equivalent education, as determined by the Board; and
- D. Be free from any infectious, contagious, or communicable disease.

History

CJY-78-68, July 11, 1968.

§ 162. Application requirements

No school or college of barbering shall enroll or admit any student unless the student shall file, in duplicate, a newly verified application. The form and content of the application shall be prescribed by the Board, and such forms shall be supplied by the Board to applicants, schools, or colleges upon request. One copy of the application shall be retained by the school or college enrolling or admitting the student and the other copy shall be filed by the school or college with the Board. No school or college of barbering shall enroll or admit any student in a postgraduate course when the postgraduate course is for the purpose of qualifying persons to pass the examination conducted by the Board, unless the student shall file, in duplicate, an application duly verified. The application shall be obtained by such student or school or college from the Board and the application shall show that the applicant has either: (1) graduated from a school or college of barbering approved by the Board; (2) holds a valid, unexpired and uncanceled certificate of registration as a registered apprentice; or (3) can prove by sworn affidavits that he or she has practiced as a barber in a state of the United States for a period of at least two years immediately prior to making such application. One copy of such application shall be retained by the college or school when admitting or enrolling said student and the other shall be filed by such school or college with said Board. Nothing in this Section shall contain or be construed as limiting or modifying the provisions of § 82 of this Chapter.

History

CJY-78-68, July 11, 1968.

§ 163. Graduation requirements

A. The school shall require as a prerequisite to graduation a course of instruction of not less than 1000 hours to be completed within six months and not more than eight hours in any one working day. Such course of instruction shall include the following subjects:

1. Scientific fundamentals of barbering, hygiene, histology of the hair, skin and nails; structure of the head, face and neck, and elementary chemistry relating to sterilization and antiseptics; and

2. Massaging and manipulating the muscles of the scalp, neck or skin of the neck; haircutting; shaving and arranging; coloring, bleaching and tinting the hair.

B. Not less than two hours out of each eight hour day shall be devoted to subjects in Subsection (A) (1) and the remainder shall be devoted to subjects in Subsection (A) (2).

History

CJY-78-68, July 11, 1968.

§ 164. Permit to operate barber school

It shall be unlawful for any person, firm or corporation to operate a barber school or barber college without first obtaining a permit from the Board of Barber Examiners, fully complying with the provisions of this Chapter.

History

CJY-78-68, July 11, 1968.

§ 165. Fees

A permit to operate a barber school or barber college, shall be purchased at an annual fee of twenty dollars (\$20.00) for each chair installed in such school upon which work or service may be performed upon a patron of the school, but such annual fee shall not be less than two hundred dollars (\$200.00).

History

CJY-78-68, July 11, 1968.

Subchapter 11. Violation of Provisions

§ 201. Notice

The Board, upon being advised of any violations of this Chapter or of any regulations enacted by the Board, shall give notice to the person or persons accused of the violation or violations. The notice shall:

- A. Be in writing and shall state the violation or violations;
- B. Be included in a statement for its issuance;
- C. State a date and time for a hearing on the matter; and

D. Be served upon the owner or his or her agent of a barbershop, barber school or barber college and/or upon the individual barber apprentice who is in violation. The notice or order shall be deemed to have been properly served when a copy of the notice or order is sent by registered mail to the last known address of the person in violation of this Chapter or regulations of the Board.

History

CJY-78-68, July 11, 1968.

§ 202. Hearing

Any person affected by any notice or regulation which is issued in implementation or enforcement of these regulations, may request and will be granted a hearing on the matter before the Board provided that such person shall file with the Board a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days of issuance of the notice or regulation. Upon receipt of such petition, the Board shall set a time and place for such hearing and, will give the petitioner written notice. At the hearing, petitioners will be given an opportunity to be heard and show why such notice or regulation should be modified or withdrawn. The hearing will be commenced no later than 10 days after the day on which the petition was filed, provided that upon application of the petitioner the Board may postpone the date of the hearing for a reasonable time beyond such 10-day period.

History

CJY-78-68, July 11, 1968.

§ 203. Determination

After the hearing the Board may sustain, modify or withdraw the notice or regulation pending the finding as to the compliance or noncompliance with these regulations. If the Board shall sustain or modify such notice, it shall be deemed to be in order. Any notice or regulation served pursuant to this Chapter shall become an order if a written petition for a hearing shall not have been filed with the Board within 10 days after such notice or regulation was passed.

History

CJY-78-68, July 11, 1968.

§ 204. Record of proceedings

The proceedings at such hearings, including the finding(s) and decision(s) of the Board, shall be reduced to writing and entered as a matter of public record with the Board. Such records shall include every notice or order issued in connection with the matter.

History

CJY-78-68, July 11, 1968.

§ 205. Emergency action

The Board may, when an emergency exists requiring immediate action to protect public health, take such action as is deemed necessary to meet the

emergency notwithstanding any other provision of this Chapter. The order shall be effective immediately.

History

CJY-78-68, July 11, 1968.

§ 206. Orders

Orders issued under the emergency powers of the Board shall remain in force and effect until revoked by the board or until a hearing has been held before the Board.

History

CJY-78-68, July 11, 1968.

Revision note. Slightly reworded for purposes of statutory form.

§ 207. Perjury

A. The wilful making of any false statement of a material matter under any oath or affidavit which is required by provisions of this Chapter is perjury and punishable as such.

B. Perjury shall be punishable by a fine of not less than twenty-five dollars (\$25.00) and no more than two hundred dollars (\$200.00), or by imprisonment in the Navajo Nation jail not less than 20 days or more than six months or both.

History

CJY-78-68, July 11, 1968.

§ 208. Penalties—Generally

Each of the following constitutes a misdemeanor, punishable upon conviction by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00), or by imprisonment in the Navajo Nation jail not less than 10 days or more than 90 days, or both, in the discretion of the court trying the case:

A. The violation of any of the provisions of this Chapter.

B. Obtaining or attempting to obtain a certificate of registration for money other than the required fee or for any other thing of value or by fraudulent misrepresentation.

C. Practicing or attempting to practice by fraudulent misrepresentation.

D. The use of any room or place for barbering which is also used for business purposes (except the sale of hair tonics, lotions, creams, toilet articles, cigars, tobacco, confectionery, laundry and such commodities as are used and sold in barbershops), unless said room or place is separated from the

portion used for business purposes by solid walls reaching from floor to ceiling.

E. The use for barbering of a room or quarters also used for residential purposes, unless said quarters have an outside entrance and are separated from the remainder of the building by solid walls reaching from floor to ceiling.

History

CJY-78-68, July 11, 1968.

§ 209. Nonmembers of the Navajo Nation

Nonmembers of the Navajo Nation who fail to comply with this Chapter or the regulations of the Board, issued pursuant to this Chapter, may be excluded from Navajo Nation land. Nonmembers of the Navajo Nation excluded pursuant to this regulation¹ shall be excluded under the procedures as established in Title 17 of the Navajo Nation Code.

History

CJY-78-68, July 11, 1968.

§ 210. Payment of fines

Fines levied by the Board shall be paid directly into the Navajo Nation General Fund and shall not be retained for the benefit of the Board.

History

CJY-78-68, July 11, 1968.

Chapter 3. Practice of Cosmetology

Subchapter 1. Generally

§ 401. Definitions

For the purposes of this Chapter and unless otherwise required by the context:

- A. "Board" shall mean the Advisory Board of Cosmetology Examiners.
- B. "Certificate" shall mean a certificate of registration entitling the person named therein to practice or operate a cosmetology school or cosmetology shop.
- C. "Communicable disease" shall mean an illness due to an infectious agent or its toxic products which is transmitted directly or indirectly to a healthy person from an affected person, animal or arthropod or through the agency of an intermediate host, vector or the inanimate environment.
- D. "Cosmetology" shall mean any one or any combination of the following

practices done upon the upper part of the human body for cosmetic purposes; and not for the treatment of diseases or physical or mental ailments; and when done for payment either directly or indirectly; or without payment for the general public; upon a female: (1) massaging, cleansing, stimulating, manipulating, exercising, beautifying, or applying oils, creams, antiseptics, clays, lotions, or other preparations, either by hand or by mechanical or electrical appliances; (2) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of a person; (3) cutting, clipping, or trimming the hair; (4) arching eyebrows; (5) removing superfluous hair from the face, neck, shoulders, or arms by the use of depilatories; (6) cleansing, dressing, or polishing the nails of a person, referred to in this Chapter as manicuring.

E. "Cosmetology school" shall mean any place, shop, or establishment where the practices, fundamentals, theories or practical applications of cosmetology are taught for pay, whether direct or indirect.

F. "Cosmetology shop" shall mean any place, shop or establishment wherein the practice of cosmetology is engaged in or carried on as a business, trade, or profession.

G. "Health Advisor" shall mean the United States Public Health Service, Window Rock Area Medical Officer in Charge or his or her designated representative.

History

CJY-79-68, July 11, 1968.

§ 402. Persons exempt

The following persons are exempt from the provisions of this Chapter while in the discharge of their professional duties:

A. Persons licensed to practice medicine and surgery.

B. Licensed physicians and surgeons and commissioned medical or surgical officers of the United States Public Health Service.

C. Registered nurses.

D. Undertakers and morticians.

E. Establishments and persons licensed under the Barbering Statute.

F. Cosmetology schools operated and conducted by any institution of learning as a part of their regular curriculum. Provided, however, that hours of study completed in such institutional school shall be counted toward the hours of study required by this Chapter.

History

CJY-79-68, July 11, 1968.

Subchapter 3. Board of Cosmetology Examiners

§ 451. Membership of Board

There shall be appointed by the President of the Navajo Nation a board of three members, which shall be known as the Board of Cosmetology Examiners. The members of the Board shall be selected for their interest in developing on the Navajo Nation a cosmetology profession of high standards and efficiency. The Board shall have the following representation:

A. One member shall be chosen from the staff of the United States Public Health Service.

B. One member shall be a registered cosmetologist from the Navajo Nation.

C. The third member shall be chosen from among the Navajo Nation, but need not be a registered cosmetologist.

History

CJY-79-68, July 11, 1968.

§ 452. Term of office

One member of the Board shall be appointed for the term of one year, the second member shall be appointed for a term of two years, and the third member shall be appointed for a term of three years. As each member's term expires, and thereafter, members shall be appointed for terms of three years. The Board shall be non-partisan.

History

CJY-79-68, July 11, 1968.

§ 453. Election of officers; meetings

The Board shall organize by electing a president, vice-president, and secretary from among its members. The Board shall meet semi-annually on the second Monday of February and the second Monday of August, and at such other times as are necessary in order to efficiently enforce this Chapter.

History

CJY-79-68, July 11, 1968.

§ 454. Quorum

A majority of the Board shall constitute a quorum and may perform and exercise all the duties and powers devolving upon it.

History

CJY-79-68, July 11, 1968.

§ 455. Record of proceedings

The secretary of the Board shall keep a record of its proceedings, a register of persons registered as cosmetologists and instructors, showing the name, place of business and residence of each and the date and the number of the certificate of each, and a record of all licenses or certificates issued, refused, renewed, suspended or revoked. Its records shall be open to public inspection at all reasonable times. The Board shall annually, on or before the first day of July, make a report to the Government Services Committee of the Navajo Nation Council of all its official acts during the preceding year.

History

CJY-79-68, July 11, 1968.

§ 456. Removal

The President of the Navajo Nation shall have the power to remove any member of the Board for incompetency, gross immorality, disability, for any abuse of his or her official power or for any other sufficient cause.

History

CJY-79-68, July 11, 1968.

§ 457. Vacancies

Any vacancies that shall occur shall be filled by an appointment within 90 days after the occurrence of the vacancy. Members appointed to fill vacancies caused by death, resignation or removal shall serve only for the unexpired term of their predecessors.

History

CJY-79-68, July 11, 1968.

§ 458. Powers and duties

A. A member of the Board, or its agents or assistant, shall have the authority to enter upon and inspect a cosmetology shop or cosmetology school at any time during business hours. The Board may make reasonable rules and regulations for the administration of the provisions of this Chapter. A copy of the rules, regulations and sanitary requirements adopted by the Board shall be furnished by the Board to the owner or manager of each cosmetology shop or cosmetology school and such copy shall be posted in a conspicuous place in each cosmetology shop, or cosmetology school.

B. The Board shall act as mediator or arbitrator in any controversy or issue relating to cosmetology which arises between or among cosmetologists, either as individuals or as organized groups.

C. The Board shall have the full power to conduct hearings pursuant to this Chapter and all future regulations of the Board; to subpoena the

attendance of witnesses and production of relevant books and papers; and to levy fines and to issue orders and judgments requiring the payment of fines or the compliance with this Chapter and regulations of the Board, and the doing of any and all acts pursuant to this Chapter and regulations of the Board deemed necessary to conduct a hearing or investigation.

History

CJY-79-68, July 11, 1968.

Cross References

Display of certificates, see 20 N.N.C. § 506.

Notice and hearings, persons accused of violations, see 20 N.N.C. §§ 651, 652.

Penalties and payment of fines, see 20 N.N.C. § 658 *et seq.*

§ 459. Findings; appeal

The decision of the Board shall be final and binding. Provided, however, that the decision of the Board may be appealed to the Navajo Nation court system pursuant to the Navajo Nation Rules of Civil Procedure as they are enacted by the Judicial Branch of the Navajo Nation. Appeals to the Navajo Nation court system shall be *de novo* proceedings.

History

CJY-79-68, July 11, 1968.

Cross References

Courts and procedure, see Title 7 of the Navajo Nation Code.

§ 460. Board of Cosmetologist Examiners' Fund

A. All monies received by the Board under this Chapter shall be paid to the secretary, who shall give a receipt therefor.

B. At the end of each month the secretary shall report to the Navajo Nation Controller the total amount received under this Chapter from all sources and shall deposit the amount with the Navajo Nation Controller, who shall place it in a special fund known as the Navajo Board of Cosmetologist Examiners' Fund.

C. Ninety percent (90%) of all monies deposited in the Fund shall constitute a separate fund for the maintenance of the Board and for the enforcement of this Chapter, and the remainder shall be credited to the General Fund of the Navajo Nation.

History

CJY-79-68, July 11, 1968.

Subchapter 5. Cosmetologist Qualifications

§ 501. License requirements

On and after the effective date of this Chapter, it shall be unlawful to:

A. Practice cosmetology on the Navajo Nation without a certificate of registration as a registered cosmetologist issued pursuant to the provisions of this Chapter by the Board of Cosmetology Examiners.

B. For any person, association of persons, or corporation to operate a cosmetology shop or cosmetology school, unless it is at all times operated under the personal supervision and management of a registered cosmetologist.

C. For any person, association of persons, or corporation to employ or engage as an associate any person to engage in the practice of cosmetology as herein defined unless such person shall display a currently valid certificate of registration as a registered cosmetologist.

D. For any person, association of persons, or corporation to operate a cosmetology shop on the Navajo Nation without having obtained an annual establishment license, which license shall at all times be posted in a conspicuous place in the shop. The license shall not be transferable and shall be valid only for the place and location stated in the license.

E. For any person, firm or corporation to open or establish a cosmetology shop on the Navajo Nation without first having had the shop inspected and approved by the health advisor.

History

CJY-79-68, July 11, 1968.

§ 502. Qualifications

A. Any person shall be qualified to receive a certificate of registration and practice as a registered cosmetologist:

1. Who is a citizen of the United States of America;
2. Who is qualified under the provisions of Subchapter 5 of this Chapter;
3. Who is at least 18 years of age;
4. Who is of good moral character and temperate habits;
5. Who is the possessor of at least a tenth grade secondary education; and
6. Who has satisfactorily passed an examination conducted by the Board to determine his or her fitness to practice cosmetology.

B. Any person who, under the provisions of this Chapter, fails to satisfactorily pass an examination conducted by the Board must continue to study for an additional six months before he or she is again entitled to take the examination for a registered cosmetologist and should he or she fail to pass the second examination, he or she shall not practice cosmetology on the Navajo Nation.

History

CJY-79-68, July 11, 1968.

§ 503. Registered cosmetologist transferring to the Navajo Nation

Any person who is at least 18 years of age and of good moral character and temperate habits and who is a citizen of the United States of America and has a license or certificate of registration as a practicing cosmetologist from a state or country which has substantially the same or higher requirements for registering cosmetologists than are required by this Chapter or who can prove by sworn affidavits that he or she has practiced as a cosmetologist for a period of at least five years prior to making application on the Navajo Nation shall, upon filing an application and payment of the required fee, be granted permission to take an examination to determine his or her fitness to receive a certificate of registration to practice cosmetology. Should he or she fail to pass the examination he or she may file a new application accompanied by the, required fee and take another examination if he or she desires. In no event will he or she be permitted to practice cosmetology until such time as he or she has satisfactorily passed the examination and has received the certificate of registration as a registered cosmetologist.

History

CJY-79-68, July 11, 1968.

Cross References

Fees, see 20 N.N.C. § 509.

§ 504. Application

Any person who desires to practice cosmetology shall file with the secretary of the Board of Cosmetology Examiners a written application under oath on a form prescribed by the Board, together with two 5"x 3" signed photographs of the applicant, and satisfactory proof that applicant is of good moral character, and also furnish the Board with a certificate from a licensed physician showing that applicant is free from any contagious and infectious or communicable disease, together with results of laboratory tests for syphilis and tuberculosis, which certificate shall not be dated more than ten days prior to the date of application for registration.

History

CJY-79-68, July 11, 1968.

§ 505. Examination

A. The Board shall conduct examinations of applicants for certificates of registration to practice as a registered instructor, or registered cosmetologist at least two times each year at several locations around the Navajo Nation fixed and published in advance by the Board.

B. Such examinations shall include a practical demonstration by each applicant as well as a written and oral test of the applicant's knowledge of the subjects required to be taught at schools of cosmetology. The practical examination shall count for sixty percent (60%), and the written and oral examinations for forty percent (40%).

C. A certificate to practice shall be issued to each applicant who shall satisfactorily pass an examination with an average grade of not less than seventy-five percent (75%), and shall possess the other qualifications required by law.

History

CJY-79-68, July 11, 1968.

Cross References

Qualifications to receive certificate of registration, see 20 N.N.C. § 502.

§ 506. Display of certificates

Every holder of a certificate of registration shall display it in a conspicuous place at or near his or her work chair. Sanitation rules and ordinances shall be displayed in a conspicuous place within the cosmetology shop.

History

CJY-79-68, July 11, 1968.

§ 507. Renewal of certificates

Every registered cosmetologist, every registered instructor, and every owner of a cosmetology shop or cosmetology school, shall annually, on or before the first day of July of each year, renew his or her certificate of registration, establishment license or permit and pay the required fee. Upon applying for a renewal certificate every registered cosmetologist or instructor shall furnish the Board with a medical certificate as provided in § 504 of this Subchapter. Every certificate of registration, establishment license, or permit which has not been renewed as herein required in any year, shall expire on the first day of August in that year. A registered cosmetologist or registered instructor whose certificate of registration has expired may have his or her certificate restored upon payment of the required fee. Any registered cosmetologist or instructor who has been absent from the practice of cosmetology for a period of over three years must retake and satisfactorily pass the examination for cosmetologist or instructor, respectively, before issuance of a new certificate of registration.

History

CJY-79-68, July 11, 1968.

Cross References

Fees for renewal certificates or permits, see 20 N.N.C. § 509.

§ 508. Revocation of certificates

The Board shall either refuse to issue a renewal or shall suspend or revoke any certificate of registration for any one or combination of the following causes:

A. Conviction of a felony shown by certified copy of the record of the court of conviction, or conviction of a misdemeanor shown by certified copy of the record of the court of conviction, which in the opinion of the Board shows an unfitness to practice cosmetology.

B. Malpractice or incompetency.

C. Continuing to practice cosmetology while knowingly afflicted with an infection or communicable disease.

D. Advertising by means of knowingly false or deceptive statement(s).

E. Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit-forming drugs.

F. Immoral or unprofessional conduct.

G. Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or for any other thing of value or by fraudulent misrepresentations.

H. Wilful failure to display certificate of registration or copy of the sanitation rules as provided in § 506 of this Subchapter.

I. Violation of any of the sanitary regulations promulgated by the Board of Cosmetology Examiners and the health advisor for the regulation of cosmetology shops and cosmetology schools.

J. Owning, operating, or managing a cosmetology school or a portion thereof in which the practice of cosmetology is carried on, unless at each entrance to each school is displayed a sign in letters not less than eight inches in height indicating to the public that the school, place, or establishment is a cosmetology school and the work therein is done by students exclusively.

K. Owning, managing, or operating a cosmetology shop unless there is displayed clearly visible at the main entrance thereto a sign indicating that it is a cosmetology shop. The phrase "beauty shop", "beauty salon" or other phrase commonly used to designate a cosmetology shop shall be sufficient.

History

CJY-79-68, July 11, 1968.

§ 509. Fees

The Board of Cosmetology Examiners shall charge and collect the following fees in advance:

A. For examination of an applicant to practice as a cosmetologist: Fifteen dollars (\$15.00).

B. For issuance of a certificate to practice as a cosmetologist: Ten dollars (\$10.00).

C. For renewal of a certificate to practice as a cosmetologist: Fifteen dollars (\$15.00).

D. For restoration of an expired certificate to practice as a cosmetologist: Ten dollars (\$10.00).

E. For the examination of an applicant to practice as an instructor: Twenty dollars (\$20.00).

F. For issuance of a certificate as an instructor: Ten dollars (\$10.00).

G. For renewal of certificate as an instructor: Five dollars (\$5.00).

H. For annual establishment fee to be paid by each shop owner: Five dollars (\$5.00).

I. Each application to open or establish a cosmetology shop on the Navajo Nation shall be accompanied by a fee of one hundred dollars (\$100.00) to cover expenses of inspection which shall be retained by the Board and deposited as other fees.

J. A duplicate license, certificate or permit to replace a lost certificate shall be issued upon the filing of a statement covering the loss of same, verified by the oath of the applicant, and submitting the signed photograph of applicant, and the payment of a fee of one dollar (\$1.00) for the issuance of same. Each duplicate shall have the word "Duplicate" stamped across the face thereof, and shall be the same number as the lost certificate.

History

CJY-79-68, July 11, 1968.

Cross References

Board of Cosmetologist Examiners' Fund, see 20 N.N.C. § 460.

Subchapter 7. Licensing of Cosmetology Shops

§ 551. Licensing requirements

No cosmetology shop shall be licensed and approved by the Board unless:

A. It is located in separate quarters, or if located in less than the whole of a single building, the quarters occupied are separated from the remainder of the building by solid walls reaching from floor to ceiling, but a barber shop and a beauty shop may be located in the same room or quarters;

B. It has running hot and cold water therein;

C. It conforms to and complies with the rules and regulations promulgated by the Board; and

D. There is displayed at the main entrance thereto a sign clearly indicating that it is a cosmetology shop.

History

CJY-79-68, July 11, 1968.

Subchapter 9. Regulation of Cosmetology Schools

§ 601. Cosmetology schools—Admission requirements

No cosmetology school shall be licensed and approved by the Board to operate as such unless it requires as a prerequisite to admission that the applicant:

A. Be more than 16 1/2 years of age;

B. Be of good moral character and temperate habits;

C. Furnish a diploma showing graduation from an eighth grade grammar school or have an equivalent education, as determined by the Board; and

D. Be free from any infectious, contagious, or communicable disease.

History

CJY-79-68, July 11, 1968.

§ 602. Application requirements

No school of cosmetology shall enroll or admit any student unless the student shall file, in duplicate, a newly verified application. The form and content of the application shall be prescribed by the Board, and such forms shall be supplied by the Board to applicants, schools, or colleges on request. One copy of the application shall be retained by the school or college enrolling or admitting the student and the other copy shall be filed by the school or college with the Board. No school of cosmetology shall enroll or admit any student in a postgraduate course when the postgraduate course is for

the purpose of qualifying persons to pass the examination conducted by the Board, unless the student shall file, in duplicate, an application duly verified. The application shall be obtained by such student or school or college from the Board and the application shall show that the applicant has either: (1) graduated from a school of cosmetology approved by the Board; or (2) can prove by sworn affidavits that he or she has practiced as a cosmetologist in a state of the United States for a period of at least two years immediately prior to making such application. One copy of such application shall be retained by the college or school when admitting or enrolling said student and the other shall be filed by such school or college with said Board. Nothing in this Section shall contain or be construed as limiting or modifying the provisions of § 502 of this Chapter.

History

CJY-79-68, July 11, 1968.

§ 603. Graduation requirements

A. The school shall require as a prerequisite to graduation a course of instruction of not less than 1800 hours to be completed within 18 months of not more than eight hours in any one working day. Such course of instruction shall include the following subjects:

1. Scientific fundamentals of cosmetology, hygiene, histology of the hair, skin and nails; structure of the head, face and neck; and elementary chemistry relating to sterilization and antiseptics; and

2. Massaging and manipulating the muscles of the scalp, neck or skin of the neck, haircutting, shaving and arranging, coloring, bleaching and tinting the hair.

B. Not less than two hours out of each eight hour day shall be devoted to subjects in Subsection (A) (1) and the remainder shall be devoted to subjects in Subsection (A) (2).

History

CJY-79-68, July 11, 1968.

§ 604. Instructor qualifications

A. A person is qualified to receive a certificate to practice as a registered instructor who:

1. Is a registered beauty culturist; and

2. Satisfactorily passes an examination conducted by the Board.

B. An applicant for a certificate as an instructor who fails to pass an examination shall be required to complete a further course of study of not less than 100 hours in a registered school, which shall be completed within three months of not more than eight hours in any one day.

C. No applicant for an instructor's certificate shall be allowed to take the examination more than three times.

History

CJY-79-68, July 11, 1968.

§ 605. Permit to operate cosmetology school

It shall be unlawful for any person, association of persons, or corporation to operate a cosmetology school without first obtaining a permit from the Board of Cosmetology Examiners, fully complying with the provisions of this Chapter.

History

CJY-79-68, July 11, 1968.

§ 606. Fees

A permit to operate a cosmetology school shall be purchased at an annual fee of twenty dollars (\$20.00) for each chair installed in such school upon which work or service may be performed upon a patron of the school, but such annual fee shall not be less than two hundred dollars (\$200.00).

History

CJY-79-68, July 11, 1968.

Subchapter 11. Violation of Provisions

§ 651. Notice

The Board, upon being advised of any violations of this Chapter or of any regulations enacted by the Board, shall give notice to the person or persons accused of the violation or violations. The notice shall:

- A. Be in writing and shall state the violation or violations;
- B. Be included in a statement for its issuance;
- C. State a date and time for a hearing on the matter; and

D. Be served upon the owner of a cosmetology shop, or cosmetology school or his or her agent, and/or upon the individual cosmetologist or instructor who is in violation. The notice or order shall be deemed to have been properly served when a copy of the notice or order is sent by registered mail to the last known address of the person in violation of this Chapter or regulations of the Board.

History

CJY-79-68, July 11, 1968.

§ 652. Hearing

Any person affected by any notice or regulation which is issued in implementation or enforcement of these regulations, shall upon his or her request be granted a hearing on the matter before the Board provided that such person shall file with the Board a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten days of issuance of the notice or regulation. Upon receipt of such petition, the Board shall set a time and place for such hearing and shall give the petitioner written notice. At the hearing petitioner will be given an opportunity to be heard and show why such notice or regulation should be modified or withdrawn. The hearing shall be commenced no later than ten days after the day on which the petition was filed, provided that upon application of the petitioner the Board may postpone the date of the hearing for a reasonable time beyond such 10-day period.

History

CJY-79-68, July 11, 1968.

§ 653. Determination

After the hearing the Board may sustain, modify or withdraw the notice or regulation pending the finding as to the compliance or noncompliance with these regulations. If the Board shall sustain or modify such notice, it shall be deemed to be an order. Any notice or regulation served pursuant to this Chapter shall become an order if a written petition for a hearing shall not have been filed with the Board within ten days after such notice or regulation was passed.

History

CJY-79-68, July 11, 1968.

§ 654. Record of proceedings

The proceedings at such hearings, including the finding(s) and decision(s) of the Board, shall be reduced to writing and entered as a matter of public record with the Board. Such records shall include every notice or order issued in connection with the matter.

History

CJY-79-68, July 11, 1968.

§ 655. Emergency action

The Board may, when an emergency exists requiring immediate action to protect the public health, take such action as is deemed necessary to meet the emergency notwithstanding any other provisions of this Chapter. The orders shall be effective immediately.

History

CJY-79-68, July 11, 1968.

§ 656. Orders

Orders issued under the emergency powers of the Board shall remain in force and effect until revoked by the Board or until a hearing has been held before the Board.

History

CJY-79-68, July 11, 1968.

§ 657. Perjury

A. The wilful making of any false statement of a material matter under any oath or affidavit which is required by provisions of this Chapter is perjury and punishable as such.

B. Perjury shall be punishable by a fine of not less than twenty dollars (\$25) and no more than two hundred dollars (\$200.00), or by imprisonment in the Navajo Nation jail not less than 20 days or more than six months or both.

History

CJY-79-68, July 11, 1968.

§ 658. Penalties-Generally

Each of the following constitutes a misdemeanor, punishable upon conviction by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00), or by imprisonment in the Navajo Nation jail not less than 10 days or more than 90 days, or both, in the discretion of the court:

A. The violation of any of the provisions of this Chapter.

B. Obtaining or attempting to obtain a certificate of registration for money other than the required fee or for any other thing of value or by fraudulent misrepresentation.

C. Practicing or attempting to practice by fraudulent misrepresentation.

D. The use of any room or place for cosmetology which is also used for business purposes (except the sale of hair tonics, lotions, creams, toilet articles, or other articles pertinent to cosmetology, or as a laundry delivery agency), unless said room or place is separated from the portion used for business purposes by solid walls reaching from floor to ceiling.

E. The use for cosmetology of a room or quarters also used for residential purposes, unless said quarters have an outside entrance and are separated from the remainder of the building by solid walls reaching from floor to ceiling.

History

CJY-79-68, July 11, 1968.

§ 659. Nonmembers of Navajo Nation

Nonmembers of the Navajo Nation who fail to comply with this Chapter or the regulations of the Board, issued pursuant to this Chapter, may be excluded from Navajo Nation land. Nonmembers of the Navajo Nation excluded pursuant to this Chapter shall be excluded under the procedures as established in Title 17 of the Navajo Nation Code.

History

CJY-79-68, July 11, 1968.

§ 660. Payment of fines

Fines levied by the Board shall be paid directly into the Navajo Nation general fund and shall not be retained to the benefit of the Board.

History

CJY-79-68, July 11, 1968.

Chapter 5. Licensing of Medical Personnel

§ 901. Persons licensed

The Navajo Nation hereby expressly authorizes and licenses any physician, surgeon, dentist, dental assistant, registered nurse, medical assistant, practical nurse, ophthalmologist, optometrist, and optician who is employed by the Navajo Nation, its instrumentalities, entities and authorities under the following circumstances:

A. The professional is employed in his or her capacity or because of his or her professional qualifications;

B. The professional is rendering professional service, assistance or advice in his or her capacity as an employee of the Navajo Nation, or instrumentality or authority thereof;

C. The professional is licensed or certified to practice in any one of the states or territories of the United States of America and his or her right to practice in any such territory is not under suspension or revocation; and

D. The professional's credentials and references have been presented to, verified, found acceptable, and approved by the Health and Social Services Committee of the Navajo Nation Council.

History

ACMA-49-77, March 9, 1977.

Revision note. Reference to the "Advisory Committee" changed to the "Health and Social Services Committee" pursuant to 2 N.N.C. § 454(B)(1).

Chapter 7. Veterinary Code

Subchapter 1. General Provisions

§ 1001. Authority

It is within the inherent authority of the Navajo Nation to regulate and protect Navajo Nation lands and livestock/companion animal resources and to prescribe rules and regulations under which veterinary services may be delivered or permitted to Navajo individuals for the protection of the public and animal health.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1002. Findings; purpose

A. The Navajo Nation Council finds and declares:

1. The Navajo Nation is comprised of over 27,000 square miles of land, of which, a majority is used for grazing by domestic livestock;

2. The Navajo People possess the inherent right of self-government, secured and protected by the Treaties of September 9, 1849, 9 Stat. 974, and June 1, 1868, 15 Stat. 667, and other federal law, which includes the right to condition and regulate the use of Navajo lands within the Navajo Nation;

B. It is the purpose of this Chapter:

1. To protect the Navajo people, livestock, companion animals & wildlife of the Navajo Nation.

2. To regulate the practice of veterinary medicine within the Navajo Nation, tribal ranches and agricultural enterprises.

3. To promote the better utilization and prudent use of the land resources at the appropriate carrying capacities by Navajo permittees to enable them to earn a living, in whole or in part, through the grazing of their own livestock.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1003. Definitions

As used in this Chapter:

A. "Alternative Medicine" shall include but is not limited to: chiropractic, acupuncture, naturopathic medicines and practice.

B. "Animal" means any animal or mammal other than human and includes birds, fish, reptiles, and wild or domestic animals.

C. "Approved euthanasia drugs" means those controlled substances approved by the Board for the purpose of euthanizing animals.

D. "Board" means the Navajo Nation Board of Veterinary Medicine.

E. "Certified Veterinary Technician" or "CVT" means a person employed by, and working under the direction and supervision of a veterinarian licensed by the Navajo Nation Board of Veterinary Medicine, and whose work requires knowledge and education of the principles of animal health care, who has passed required state certification but is not licensed to practice veterinary medicine.

F. "Certified Euthanasia Technician" means a person whose activity is the humane euthanization of injured, abandoned or feral animals.

G. "Controlled Substance" means any substance which is registered and controlled under the Federal Controlled Substances Act, P.L. 91-513, as amended.

H. "Drug Enforcement Agency" or "DEA" means the federal agency for enforcement of narcotics laws.

I. "Equine Dentist" means an individual specially trained and certified in the techniques and practice of equine dentistry from a recognized equine dental school.

J. "Feral" means any unowned or free ranging animal or escaped from domestication and returned to its wild state and not under control of an owner.

K. "Incompetence" means lacking sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients.

L. "Horse" means a mammal of equine species.

M. "Letter of concern" means an advisory letter to notify a veterinarian / technician / assistant / lay person that, while there is insufficient evidence to support disciplinary action, the Board believes the person should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the Board may result in action against the specific person involved.

N. "Licensed veterinarian" means a person who is currently licensed to practice veterinary medicine within the Navajo Nation.

O. "Livestock" means cattle, dairy, buffalo, sheep, goats, swine and

llamas except feral pigs.

P. "Malpractice" means any one of the following:

1. Treatment in a manner contrary to accepted practices.
2. Any professional misconduct or unreasonable lack of professionalism or fidelity in the performance of professional practice.
3. Negligent treatment or practice of veterinary medicine resulting in injury, unnecessary suffering or death that was caused by carelessness, disregard of established principles or practices or neglect.
4. The practice of veterinary medicine by an individual without a license or certification of advanced training in the field of veterinary medicine.

Q. "Medicine" means any substance used to treat, alter or change a disease course.

R. "Navajo Nation" means:

1. When referring to the body politic, the same as set forth in 1 N.N.C. § 551 *et seq.*;

2. When referring to governmental territory, all land within the territorial boundaries of the Navajo Nation, including:

- a. All land within the exterior boundaries of the Navajo Indian Reservation or of the Eastern Navajo portion of the Navajo Nation, including Alamo, Tóhajiilee, and Ramah, or of Navajo dependent Indian communities, including all lands within the boundaries of Navajo Chapter governments;

- b. All lands held in trust by the United States for, or restricted by the United States or otherwise set aside or apart under the superintendence of the United States for, the use or benefit of the Navajo Nation, the Navajo Tribe, any Band of Navajo Indians, or any individual Navajo Indian as such;

- c. All other land over which the Navajo Nation may exercise governmental jurisdiction in accordance with federal or international law; and

- d. All tribal ranches and agricultural enterprises.

S. "Owner" means those financially and legally responsible for an animal(s).

T. "Practice of veterinary medicine":

1. Means the following acts:

a. Making known that one will attempt to treat any animal condition, disease, deformity, wound, injury, etc. by means of prescribing or administering any medication, controlled substance or by means of surgery;

b. Prescribing or administering any prescription-only drug for a animal; or

c. Performing any surgery other than accepted livestock management practices.

2. Does not mean the following acts:

a. Certified veterinary technicians performing tasks authorized by the rules of the Board and in the course of employment under the direction and supervision of a licensed veterinarian;

b. Veterinary students enrolled in a certified veterinary medical school performing duties or actions assigned by/or working under direct supervision of a licensed Navajo Nation veterinarian;

c. Any member of the faculty of an accredited veterinary school performing as a person lecturing or giving instruction or in connection with the continuing education course or seminar for licensed veterinarians or veterinary technicians;

d. Any merchant or manufacturer authorized to sell at his regular place of business any over-the-counter medicine or other product used in the prevention or treatment of animal disease; or

e. Any Navajo individual performing functions of accepted livestock husbandry management.

f. Medicine practice by a traditional Navajo medicine person(s) who are recognized by an official association.

g. Standard practice of equine hoof trimming and shoeing for routine maintenance done by a farrier.

U. "Prescription Horse Shoeing" means horse shoeing done for the treatment or correction of a medical injury or disease as specified by a doctor of veterinary medicine.

V. "Responsible veterinarian" means an accredited veterinarian responsible to the Navajo Nation Board of Veterinary Medicine to practice veterinary medicine and will insure a veterinary premise complies with any applicable laws pertaining to the practice of veterinary medicine, and who is responsible for the establishment of policy at their veterinary premise.

W. "Small/Companion Animal" means any species of animal kept as a pet, excluding livestock, equine, zoo or wildlife species.

X. "Surgery" is the medical specialty that treats disease or injury (ies) by operative, manual & instrumental treatment.

Y. "Temporary sites" means sites where outpatient veterinary services are performed.

Z. "Unprofessional conduct" means receiving, performing veterinary services without meeting accepted veterinary practice standards of equipment or sanitation considering the procedures performed; other conduct deemed unprofessional or unethical by the Board or that referred to Sections 1021 through 1022.

AA. "Veterinarian" means a person who has received a doctorate of veterinary medicine from an accredited college of veterinary medicine; passed the National Veterinary Board Examination; is licensed by the state of residence and the Navajo Nation Board of Veterinary Medicine.

BB. "Veterinary assistant" means a person who is not a certified veterinary technician or licensed veterinarian and is employed by a licensed veterinarian.

CC. "Veterinary college" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation by the American Veterinary Medical Association.

DD. "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, acupuncture, manipulation, and the prescribing, administering or dispensing of drugs, vaccinations and medications or alternative medications for veterinary purposes.

EE. "Veterinary Mobile Clinic" means a mobile unit that contains the same treatment facilities as are required of a permanent veterinary establishment. The term does not refer to the car, truck, or other motorized vehicle used by a veterinarian in making a house call.

FF. "Veterinary & Livestock Program Office" means the veterinary program located within the Navajo Nation Department of Agriculture, Division of Natural Resources.

GG. "Wildlife" means any species of animal native and non-domesticated to the Navajo Nation excluding feral animals.

HH. "Zoo species" means any species of animal kept for public display at a zoological park or facility.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Note. Slight rewording: the word "the" changed to "than" at Subsection T(1)(c).

§ 1004. Applicability

This Chapter shall apply to all residents/animals within the boundary of Navajo Nation lands, tribal ranches, and agricultural enterprise.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Note. Slight rewording: the word "natural pathy" changed to "naturopathic" at Subsection A; and the word "which" changed to "who" at Subsection E.

§ 1005. Rules and regulations

A. The Resources Committee of the Navajo Nation Council, upon recommendation from the Navajo Nation Board of Veterinary Medicine, shall promulgate such rules and regulations from time to time as may be necessary to carry out the provisions of this Chapter.

B. Proposed rules and regulations shall be published for public review and comment for at least 30 days prior to their adoption. Rules and regulations shall be effective in accordance with their terms after review and approval by the Resources Committee.

C. The effectiveness and enforceability of this Chapter shall not be dependent upon the adoption of regulations pursuant to this Section.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1006. Severability

If any provision of this Chapter, or its application to any person or class of person, or to any lands or to any circumstances, is held invalid for any reason by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby and shall remain in full force and effect.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1007. Prior inconsistent law superseded

Upon the effective date of this Navajo Nation Veterinary Act, all prior inconsistent enactments, laws, rules, policies, ordinances, and regulations of the Navajo Nation and all branches, divisions, departments, offices and political subdivisions thereof, are superseded hereby and/or amended to comply herewith.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1008. Short title

This act may be cited as the "Navajo Nation Veterinary Act".

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1009. Amendments

Upon the recommendation of the Resources Committee of the Navajo Nation Council, the Navajo Nation Council may from time to time amend the Navajo Nation Veterinary Act by a majority vote of the members present.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 2. Violations; Unlawful acts; Prohibitions

§ 1020. Violations

A. It is a violation of Navajo Nation law for anyone to:

1. Practice veterinary medicine, equine dentistry or alternative medicine for animals upon the Navajo Nation without a license or temporary permit from the Board;

2. Practice veterinary medicine under an assumed name or if a license has been suspended and/or revoked from another authority;

3. Falsely impersonate another veterinarian, certified veterinary technician, equine dentist or certified euthanasia technician;

4. Fraudulently obtain a veterinary medical diploma, license, or record of registration;

5. Append a veterinary title to one's name without being licensed to practice veterinary medicine, medical diploma, license, or record of registration;

6. Unlawfully assume or advertise a veterinary title conveying the impression that one is a lawful practitioner; or

7. Knowingly violate any provision of this Chapter.

B. The Veterinary & Livestock Program Office may, upon written complaint by any person, institute an investigation and, after notifying the accused, refer the complaint to the Navajo Nation Board of Veterinary Medicine and State

in which the violation is suspected to have occurred.

C. The Board, by majority vote, may impose a civil penalty not to exceed five hundred dollars (\$500.00) for each separate offense against the person for violation of this Section. Any person found by the Board to have violated this Section shall be subject to all applicable state, federal and Navajo Nation laws and may be prohibited from practicing on the Navajo Nation.

D. The Board by majority vote, may impose a cease and desist order or corrective action for the violation of this Act.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1021. Unlawful acts

It shall be unlawful to practice veterinary medicine without a license on the Navajo Nation. Each day that a person shall so violate any provision of this Chapter shall constitute a separate unlawful act.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1022. Denial, suspension or revocation of license, permit or certificate

A. The Board, by majority vote, may revoke or suspend a license, permit, or certificate granted to any person under the provisions of this Chapter, may reprimand, issue a letter of concern, and/or may impose a civil penalty not to exceed five hundred dollars (\$500.00) for each separate offense against any persons for:

1. Fraud, misrepresentation or deception in obtaining a license or permit or in services rendered;
2. Adjudication of insanity or manifest incapacity;
3. Use of advertising or solicitation that is false, misleading or is otherwise deemed unprofessional as determined by the Board;
4. Conviction of a felony or other crime involving moral turpitude in the practice of veterinary medicine;
5. Dishonesty, incompetence, gross negligence, or other malpractice in the practice of veterinary medicine;
6. Knowingly or recklessly having professional association with or employing any person practicing veterinary medicine unlawfully;
7. Fraud or dishonesty in the application or report of any test for disease in animals;

8. Practicing veterinary medicine under an assumed name;
9. Falsely impersonating another veterinarian or certified veterinary technician or equine dentist or certified euthanasia technician;
10. Failure to maintain professional premises and equipment in a clean and sanitary condition in compliance with regulations promulgated by the Board;
11. Habitual or excessive use of intoxicants or drugs;
12. Cruelty to animals;
13. Revocation of a license to practice veterinary medicine by a state, territory or district of the United States on grounds other than nonpayment of license or permit fees;
14. Unprofessional conduct by violation of a regulation promulgated by the Board;
15. Failure of a veterinary technician, certified euthanasia technician or equine dentist to work under the direction and/or supervision of a licensed veterinarian;
16. Failure of a licensed veterinarian to reasonably exercise direct supervision with respect to a veterinary technician, certified euthanasia technician, equine dentist, veterinary assistant or veterinary student;
17. Aiding or abetting the practice of veterinary medicine by a person not licensed, certified or permitted by the Board;
18. Using any controlled substance on any animal for the purpose of illegally influencing the outcome of a competitive event, show or sale or having been convicted of a violation of the "Uniform Controlled Substance Act," P.L.91-513;
19. Willfully or negligently administering a drug or substance that will adulterate meat, milk, poultry, fish or eggs;
20. Failure to maintain required logs and records;
21. The use of controlled substance or the sale of any controlled substance or the prescription of extra-label use of any over the counter drug in the absence of a legitimate purpose;
22. Failure to report, as required by law, or making false report of any contagious, infectious, zoonotic or foreign animal disease;
23. Unfair or deceptive practices; or
24. Violation of any of the provisions of this Act or any of the

rules of the Board.

B. The Veterinary & Livestock Program Office may, upon written complaint by any person, institute an investigation and, after notifying the accused, refer the complaint to the Board for a hearing to determine if a violation of this Section has occurred.

C. The Navajo Nation Board of Veterinary Medicine will notify the State Veterinary Licensing Board of its findings of any investigation, or any disciplinary actions.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Note. Slight rewording: the word "in" deleted at Subsection A(7); the word "impressionable" changed to "impersonating" at Subsection A(9); and the word "has" changed to "having" at Subsection A(18).

§ 1023. Grounds for refusal to issue or renew a premises license; disciplinary action

A. The Board may take disciplinary action against the responsible veterinarian, may place the person on probation, or may revoke, suspend, refuse to issue or refuse to renew a veterinarian's premise license for any of the following grounds:

1. Failure to notify the Board within 10 days of a change of ownership, management, or responsible veterinarian(s);

2. Failure to maintain clean and sanitary facilities for the performance of services in accordance with the rules established by this Chapter and the Board;

3. Failure to maintain accurate records or reports as required by the Board or applicable law;

4. Failure to maintain veterinary medical supplies, controlled substances, surgical equipment and other equipment in a safe, efficient, legal and sanitary manner;

5. Failure to keep a copy of records of all animals receiving veterinary services, failure to provide a summary of such records upon request to the client at the appropriate charge or failure to produce such records at the request of the Board;

6. Revocation or suspension of the license to practice veterinary medicine of the responsible veterinarian(s) holding the premises license;

7. Failure of the responsible veterinarian(s) to maintain a current license to practice veterinary medicine; or

8. Violation of any provisions in this Chapter.

B. The Veterinary & Livestock Program Office may, upon written complaint by any person, institute an investigation and, after notifying the accused, refer the complaint to the Board for a hearing to determine if a violation of this Section has occurred.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 3. Navajo Nation Board of Veterinary Medicine

§ 1030. Establishment

There is hereby created the Navajo Board of Veterinary Medicine within the Navajo Nation Department of Agriculture.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1031. Purpose

The purpose of Navajo Nation Board of Veterinary Medicine shall be:

A. To promote and encourage the highest quality and professionalism in the practice of veterinary medicine on the Navajo Nation; and

B. To regulate the admission of veterinarians, certified veterinary technicians, certified euthanasia technicians, equine dentists and veterinary assistants on the Navajo Nation.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1032. Personnel and organization

A. The Board shall consist of seven members. No less than five of the members shall be enrolled members of the Navajo Nation.

1. Two members shall be licensed veterinarians. These two members must have a license to practice veterinary medicine by any state in the United States. After the Board's first term, during which time the Board will have instituted a licensing system in accordance with this Chapter, the two veterinary members must have a license issued by the Board.

2. Two members shall be a certified veterinary technician, equine dentist or certified euthanasia technician. These two members must have a

license to practice veterinary technology, equine dentistry and/or certified euthanasia technician by any state in the United States. After the Board's first term, during which time the Board will have instituted a certification system in accordance with this Chapter, the two members must be certified by the Board as a certified veterinary technician, equine dentist or certified euthanasia technician.

3. A representative from the Department of Agriculture as a member.

4. A representative from the Department of Resource Enforcement as a member.

5. One member shall be a layperson and shall represent the public interest. The layperson shall not be a veterinarian or veterinary technician or have any significant financial interest in the field of veterinary medicine.

6. All members of this board shall be residents of the Navajo Nation.

B. Selection. Initially, the Board shall be appointed by the President of the Navajo Nation. Thereafter, the Board members shall be nominated by Navajo Nation licensed veterinarians and Navajo Nation certified veterinarian technicians and voted into office.

C. The Resources Committee of the Navajo Nation Council shall confirm the seven board members.

D. Term. Each member shall serve for a term of four years.

E. Officers. The Board shall elect a chairperson and other officers as it deems necessary. The term of each officer shall be one year ending June 30 or until the successor is elected.

F. Compensation. Each member of the Board shall receive compensation at a rate determined by the Board, but not to exceed one hundred dollars (\$100.00) for each day engaged in the service of the Board.

G. Revolving Account. The Board shall deposit all fees received pursuant to this Chapter with the Navajo Nation for the exclusive use of the Board, and money shall be expended only upon vouchers certified by a majority of the Board.

H. Meetings. The Board shall hold four quarterly meetings annually. Other special meetings may be held as necessary, but subject to the availability of funds.

I. Quorum. Unless otherwise stated, a majority of the Board members shall constitute a quorum.

J. Reports. The chairperson of the Board shall make an annual report to the Resources Committee on or before October 1 of each year. The report shall include a summary of licenses and certificates censured, summary of all investigations and actions of censure and a financial statement for the

preceding fiscal year.

K. Removal. If a Board member fails or refuses to fulfill the responsibilities and duties of a Board member, including attendance at Board meetings, the Board may remove the Board member and replace the member in accordance with this Chapter.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1033. Board duties and powers

The Board shall have the following powers:

A. To examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the Navajo Nation and issue, renew, deny, suspend or revoke licenses, certificates and issue letters of concern;

B. To create a procedure for license, permit, and certificate application;

C. To establish annually a schedule of nominal license, permit, and certificate fees based in part on the Board's financial requirements for the ensuing year in accordance with this Chapter;

D. To conduct investigations necessary or the assignment of an independent investigator to determine violations of this Act, and discipline persons found in violation of it;

E. To coordinate with the Veterinary & Livestock Program Office in administering and enforcing this Act;

F. To promulgate and enforce regulations necessary to establish recognized standards for the practice of veterinary medicine and to carry out the provisions of this Act;

G. To adopt regulations establishing continuing education requirements as a condition for license or certificate renewal;

H. To examine all applicants for certification and licensure purposes. Such examination shall be held at least once a year at the time and place designated by the Board; and

I. To communicate with State Boards of Veterinary Medicine.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1034. Legislative oversight

The Navajo Nation Board of Veterinary Medicine shall operate under the legislative oversight of the Resources Committee of the Navajo Nation Council pursuant to 2 N.N.C. § 691 *et seq.*

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 4. Licensing of Veterinarians

§ 1040. Qualifications of license applicants

Every veterinarian applicant shall:

A. Be of good moral character as it relates to the functions and duties of licensed veterinarian;

B. Have graduated from a veterinary university or college recognized by the AVMA (American Veterinary Medical Association);

C. Pass the National board exam and state examination of primary residency approved by the Board on subjects of veterinary medicine to be determined by the Board;

D. Be in good standing with State Veterinary Licensure; and

E. Review and pass test of jurisprudence of the Navajo Nation Veterinary Act.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1041. Examination of applicants

The veterinary examination shall consist of:

A. Passing national, state and Navajo Nation examinations for licensure approved by the Board; and

B. An interview by the Board.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1042. License by endorsement

The Board may issue a license without examination on Navajo laws related

to the practice of veterinary medicine, to any qualified applicant who:

- A. Holds an active license in one or more states;
- B. Has actively engaged in the practice of veterinary medicine for at least three of the preceding five years in one or more states before filing an application for licensure in the Navajo Nation;
- C. Has graduated from an accredited veterinary college recognized by the AVMA;
- D. Has had no disciplinary action taken against the applicant by any public agency concerned with the practice of veterinary medicine, has not been the subject of an adverse judgment resulting from the practice of veterinary medicine, and no disciplinary action taken against the applicant regarding illegal drug use;
- E. Has good standing in other States or the Navajo Nation; and
- F. Has paid the required licensing fee and other fees of the Board.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1043. Temporary permits

A. The Board may issue temporary permits to license applicants who have graduated from an accredited veterinary college recognized by the AVMA and who have applied for a license board meeting.

1. The permit shall expire at the next board meeting.
2. If an applicant fails to attend the board meeting, the Board, by majority consent, may extend the permit until the next examination period's results are available.
3. No more than two temporary permits shall be issued to one individual. No temporary permit shall be good for more than three months.
4. Must be licensed in good standing within state residing as an active practicing veterinarian.

B. Temporary permits entitle their recipients to engage in the active practice of veterinary medicine in the Nation as employees of a Navajo licensed veterinarian or under the supervision of the Nation.

C. Holders of temporary permits shall be eligible for the next board meeting provided the holder meets the qualifications set forth in Section 1040 or 1042 and provided the holder has not violated any provision of this Chapter.

D. Temporary permits maybe revoked in violation of this Act.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1044. Permit for non-resident practice

If the Board sees fit, it may choose to issue temporary permits to veterinarians licensed to practice in states of the United States and whose practice occasionally extends into the Navajo Nation.

A. In good standing with the Veterinary Medical Board of the Navajo Nation.

B. Shall not supersede Section 1043 (A) (3), (A) (4), and (B).

C. Shall abide by all other provisions of this Act.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1045. License renewal

A. Each license issued in accordance with this Chapter will be subject to a two-year renewal cycle as demonstrated by a two-year expiration date printed on the license.

B. Each license automatically expires on the expiration date printed on the license, unless renewed.

C. For license renewal, the Board shall require proof of:

1. Continuing education;

2. Good standing with State of Residence and have active veterinary license;

3. Premise License;

4. No suspension, revocation or conviction against the renewal applicant's previous certificate;

5. The applicant having paid the reasonable renewal fee determined by the Board;

6. The applicant having provided up-to-date information on the address of applicant's license; and

7. Any other factors the Board finds compelling.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 5. Certified Veterinary Technicians

§ 1050. Certification

The Board shall certify qualified applicants as veterinary technicians.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1051. Qualifications

A. Applicants shall be of good moral character and be at least 18 years of age. Applicants shall furnish one of the following:

1. Proof of graduation from a two-year curriculum in veterinary technology, or its equivalent, in a college or other institution approved by the Board, or the equivalent of such graduation as determined by the Board; or

2. Proof that the applicant has been employed for at least two years as a veterinary assistant under the supervision of a veterinarian licensed in the Nation, any state or territory of the United States, and is recommended to the Board by the employing veterinarian.

B. Applicants must have passed a state veterinary technician examination and is licensed by said state.

C. Applicants must also be approved by the Board.

D. Applicants must also pay the nominal application fee determined by the Board.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1052. Temporary certificates for non-resident technicians

A. If the Board sees fit, it may choose to issue certificates to veterinary technicians certified to practice in states of the United States and whose practice occasionally extends into the Navajo Nation.

B. Applicants must also pay the nominal application fee determined by the Board.

C. No more than two temporary permits shall be issued to one individual. No temporary permit shall be good for more than three months.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1053. Services

A. The Board shall adopt rules and regulations pertaining to and limiting the services performed by a veterinary technician.

B. Veterinary technicians may perform those services authorized by the Board but may not perform surgery other than simply on the skin and underlying soft tissue, diagnosis or prognosis of animal diseases, or prescribe controlled substances.

C. Emergency exemptions may be made as may be required by the Board, but shall not violate Section 1063.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1054. Certificate renewal

A. Each certificate issued in accordance with this Chapter shall be subject to a two-year renewal cycle as demonstrated by a two-year expiration date printed on the certificate.

B. Each certificate automatically expires on the expiration date printed on the license unless renewed.

C. Certificate renewal, the Board shall require proof of:

1. Continuing education;
2. Employment;
3. No suspension, revocation or conviction against the renewal applicant's previous certificate;
4. The applicant's having paid the reasonable renewal fee determined by the Board; and
5. Any other factors the Board finds compelling.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1055. Responsibility

A. Veterinary technicians and the veterinarians who directly supervise them are jointly and severally liable for the acts and omissions of the veterinary technicians in the course of their work.

B. Veterinary technicians whom conduct veterinary activity previously covered in this Act without the approved consent of a supervising veterinarian, shall be solely liable for their actions.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 6. Equine Dentist

§ 1060. Certification

The Board shall certify qualified applicants as an equine dentist.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1061. Qualifications

A. Applicants shall be of good moral character and be at least eighteen years of age. Applicants shall furnish the following:

1. Proof of graduation from a certified program of equine dentistry;

2. Minimum of 40 hours of supervised field experience of equine dentistry; and

3. Review and pass test of jurisprudence of the Navajo Nation Veterinary Act.

B. Applicants must also be approved by the Board.

C. Applicants must also pay the nominal application fee determined by the Board.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1062. Temporary certificates for non-resident equine dentists

A. If the Board sees fit, it may choose to issue certificates to equine dentists certified to practice in states of the United States and whose practice occasionally extends into the Navajo Nation.

B. Applicants must also pay the nominal application fee determined by the Board.

C. No more than two temporary permits shall be issued to one individual. No temporary permit shall be good for more than three months.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1063. Services

A. The Board shall adopt rules and regulations pertaining to and limiting the services performed by an equine dentist.

B. Equine Dentists may perform only those services authorized by the Board.

C. Only a licensed veterinarian and not an equine dentist may prescribe or administer, or both prescribe and administer, any drug.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1064. Certificate renewal

A. Each certificate issued in accordance with this Chapter shall be subject to a two-year renewal cycle as demonstrated by a two-year expiration date printed on the certificate.

B. Each certificate automatically expires on the expiration date printed on the license unless renewed.

C. Certificate renewal, the Board shall require proof of:

1. Continuing education;

2. Employment;

3. No suspension, revocation or conviction against the renewal applicant's previous certificate;

4. The applicant's having paid the reasonable renewal fee determined by the Board; and

5. Any other factors the Board finds compelling.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1065. Responsibility

A. Equine Dentists and the veterinarians who directly supervise them are jointly and severally liable for the acts and omissions of the equine dentists in the course of their work.

B. Equine Dentists whom conduct dentistry activities previously covered in this Act without the approved consent of a supervising veterinarian, shall be solely liable for their actions.

C. Equine Dentists must carry proof of certification while practicing equine dentistry.

D. Supervising veterinarian and certified equine dentists must maintain dental charts for procedures done.

E. Equine Dentists shall practice current biosafety and hygiene procedures during and after every patient.

F. Equine Dentists shall be required to report any suspicious diseases encountered to the Navajo Nation Veterinary & Livestock Program, Department of Agriculture.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 7. Licensing of Veterinary Medical Premises

§ 1070. Generally

All premises (veterinary clinics, hospitals, veterinary mobile clinic, etc.) within the boundaries of the Navajo Nation of all practicing veterinarians shall be licensed and shall meet the requirements of construction, sanitation and cleanliness set forth in this Chapter and expanded upon by the Board. The Board shall recognize premise licenses issued by applicable states.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1071. Inspections

The Board or its designee shall inspect all premises before licensing them.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1072. Building and grounds standards

All buildings, vehicles and grounds shall conform to applicable laws and regulations. The premises shall be identifiable as veterinary medical facilities during all hours in which services are available to the public and all licensed veterinary medical premises registered with Navajo Nation Animal Identification System.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1073. Equipment standards

A. All veterinary premises shall be equipped with adequate diagnostic and treatment equipment and supplies.

B. The Board shall determine what constitutes adequate equipment and supplies.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1074. Housekeeping standards

A. All areas of the veterinary medical grounds, buildings and facilities shall be kept clean and free of refuse.

B. Floors, countertops, tables, sinks, and similar equipment and fixtures shall be cleaned and disinfected after contact with any internal organ, body fluid or other bodily discharges.

C. Examination tables, surgery tables and all indoor animal compartments shall be cleaned and disinfected after each patient use.

D. Indoor animal compartments and exercise runs shall be cleaned and disinfected at least once a day when in use.

E. Equine compartments shall be cleaned at least once daily while in use.

F. Large Animal Compartments shall be cleaned at least once a week upon vacating the premise.

G. If communicable disease of the patient housed therein is present, the

enclosure shall be disinfected after each patient usage, and personnel shall practice current biosecurity containment and safety procedures following each treatment or contact.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1075. Veterinary mobile clinics

All facility, housekeeping and equipment standards enumerated in this Act shall be applicable to Animal Mobile Clinics. All Animal Mobile Clinics shall be equipped with:

- A. Hot and cold water sources;
- B. Storage containers for the disposal of waste & biohazard materials;
- C. A power source to operate all diagnostic equipment;
- D. If treating communicable diseases personnel shall follow current biosecurity procedures following each treatment of contact;
- E. Drugs shall be maintained in a safe and orderly manner;
- F. Facilities shall be provided for meeting manufacturers' requirements for temperature control of medications and supplies;
- G. Surgical equipment shall be in either individual sterilized packs or a sterilizing solution; and
- H. Any other equipment the Board finds compelling.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 8. Dispensing of Drugs and Devices

§ 1080. Provisions

A. Veterinarians may dispense drugs and devices kept by veterinarians, if the drugs and devices are dispensed in packages labeled with the following information:

1. The dispensing veterinarian's name, address and telephone number;
2. The date the drug and/or device is dispensed;
3. The animal owner's name and the animal's or the herd's identification; and

4. The name, strength and quantity of the drug and/or device, directions for its use and any cautionary statements.

B. The dispensing veterinarians enter into the medical record the name, strength and quantity of any drug dispensed, the date the drug and/or device is dispensed and the therapeutic reason(s).

C. Veterinarian and medical personnel will have an appropriate Veterinary-Client-Patient-relationship.

D. All medical orders shall be explained to the owner in oral and understandable terms.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1081. Packaging requirements

A. Controlled substance that is repackaged by veterinarians shall be dispensed in a child-proof container unless the animal owner or the person responsible for the animal is physically incapable of opening such a container and him or her signs and waives this requirement.

B. Veterinarians may dispense bulk controlled substance in non-child-proof containers. For the purposes of this Section, more than one ounce of any product shall constitute a bulk product.

C. Veterinarians may dispense controlled substance in the manufacturer's original dispensing package without repackaging the product in child-proof containers.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1082. Storage

A. All controlled substance shall be kept in a locked container unless a veterinarian or certified euthanasia technician is immediately present.

B. All controlled substances shall be stored and locked in an area where members of the public are not allowed access unless accompanied by a veterinarian or a member of the veterinarian's staff.

C. All unused and/or expired controlled drugs shall be destroyed or returned to the source of supply in accordance with DEA requirements.

D. Non-veterinarian employee(s) shall not have access to controlled substances unless a veterinarian is present.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1083. Who may dispense drugs

A. When dispensing prescription medication, a veterinarian or an authorized employee acting under the direct supervision of a veterinarian may select the drug, count the quantity of the drug, and place the drug in a prescription container. Any employee may prepare labels, prepare drug containers, or record information required by applicable law. A veterinarian shall personally review the repackaged product and the records to ensure that they are accurate and comply with any applicable laws before the drug is dispensed.

B. When dispensing controlled substance, only a licensed veterinarian may dispense. The veterinarian supervising the dispensing shall personally ensure that records are maintained and that all applicable laws are followed.

C. Outdated drugs shall not be dispensed, except in times of emergency and no other drugs are available for the condition being treated.

D. Prescriptions may be written for third-party dispensing pursuant to Section 1082.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 9. Certified Euthanasia Technician

§ 1090. Application; qualifications; endorsement

A. Only Certified Euthanasia Technicians (CET) are allowed to handle and administer controlled euthanasia drugs.

B. Application for certification as a certified euthanasia technician (CET) must be made on forms prescribed by the Board.

C. Application must include:

1. A current, within two years, photograph of the applicant, certified by a notary;
2. Documentation of successful completion of a Board-approved training program taken within three years from the application date;
3. Documentation of successful completion of a Board-approved written and practical examination;

4. Verification of all current employment at certified agencies;

5. Navajo Nation Department of Criminal Investigation background check verifying that the applicant has no previous criminal convictions involving dangerous drugs and/or controlled substances, domestic violence or animal cruelty;

6. Verification that applicant is at least 18 years of age; and

7. Payment of the proper application fee.

D. The Board may allow submission of a current euthanasia technician license from another state or province to meet the requirements of (C) (2) and (3) of this Section, if the Board determines that the other state's or province's equivalent to or greater than the standards of the Navajo Nation.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1091. Board-approved training program criteria

To qualify for approval, a euthanasia training program must:

A. Be conducted by a qualified instructor;

B. Include but not be limited to instruction in:

1. Proper dosage and handing of approved euthanasia drugs;

2. Human safety and proper injection techniques;

3. Pharmacology of approved euthanasia drugs;

4. Proper animal handling to ease trauma and stress;

5. Animal anatomy;

6. Proper security precautions;

7. Proper record keeping; and

8. Appropriate verification of death; and

C. Issue a certificate of approval containing:

1. Name of applicant;

2. Name of instructor;

3. Title of course;

4. Date of course;
5. Number of hours; and
6. Presentation format.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1092. Certified Euthanasia Technician test criteria

A. A Board-approved written and practical test for CETs must include:

1. Navajo Nation regulations governing CETs;
2. State and DEA drug record keeping requirements including disposal of out-of-date drugs and reporting of loss or theft of drugs;
3. Human safety in administration of animal euthanasia;
4. Pharmacology of sodium pentobarbital or its derivatives;
5. Proper dosage and injection techniques of approved euthanasia drugs;
6. Animal anatomy;
7. Verification of death; and
8. Proper disposal of carcass.

B. A passing score on the written portion of the examination of 70% is required.

C. A passing score on the practical test will be determined by the successful completion of hands-on demonstrations which indicate that the applicant has been properly trained in procedures which enable the applicant safely and effectively to perform humane euthanasia with sodium pentobarbital. The practical examination will be graded on a pass/fail basis.

D. Applicants who fail to achieve a passing score on any portion of the exam will not be eligible for certification, or eligible for retesting for one year.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1093. Application for Certified Euthanasia Agencies

A. A certified euthanasia agency (CEA) may purchase and possess controlled substances approved for the purpose of euthanasia. The application for initial certification as a CEA must be made on forms provided by the Board.

B. Applications must include:

1. Documentation of passage of an inspection by a Board-approved instructor;

2. A copy of completed application sent to the DEA to possess and store controlled substances approved by the Board for the purpose of euthanasia, DEA number to be reported to Board when issued;

3. A list of all CETs or veterinarians employed by the agency with the day, month, and year that each individual began employment;

4. Indication of which CET is responsible for all aspects of euthanasia at the agency; and

5. Payment of the proper fee.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1094. Certified Euthanasia Agency inspection criteria

A. An inspection of a CEA must be conducted annually by the Board or a person authorized by the Board with its full authority.

B. The inspection must include:

1. Verification that the area and equipment is appropriate for animal euthanasia;

2. Verification of the correct security, storage, disposal and labeling of euthanasia drugs;

3. Verification of correct drug record keeping;

4. Appropriate sanitation; and

5. Any other condition that the Board determines is relevant to the proper euthanasia of animals.

C. If the inspector determines that a deficiency substantially affects the public health, safety, or welfare or jeopardizes animals under the control of the CEA, the inspector must immediately inform law enforcement and the Board which may summarily suspend the CEA's certificate pursuant to and applicable Navajo Nation law. If a less serious deficiency is found after inspection, it

must be communicated to the agency and the Board in writing. The CEA must correct any such deficiency within 30 days from the date of the inspection. If a second inspection is required, a second inspection fee must be paid by the agency. Failure to sufficiently correct a noted deficiency will be addressed as a disciplinary matter by the screening panel of the Board and the Board may notify the DEA.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1095. Termination of Certified Euthanasia Technician employment; lapse of certificate

A. A CEA must notify the Board in writing within 10 days of the date of termination of a CET. The certificate of the CET must be lapsed by the Board upon notification that the technician is no longer employed by a CEA as required by law.

B. A CET must notify the Board in writing within 10 days of the change in employer or addition of a new CEA employer.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1096. Approved euthanasia drugs

The following drug is an approved euthanasia drug: Sodium pentobarbital or its derivative.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1097. Annual renewal of certificate; technicians; Certified Agencies

A. CETs must re-certify on a form or by a method approved by the Board on or before May 30 of every year, beginning in 2008. The certification renewal application must include:

1. Verification of satisfactory completion of a Board-approved euthanasia course;
2. Documenting continued education taken within the 24 months immediately preceding the current renewal deadline date;
3. Verification of current employment at a CEA; and

4. Payment of the proper fee.

B. CEAs must renew certification on a form or by a method approved by the Board on or before May 30 of every year, beginning in 2008. The renewal application must include:

1. Verification of completion of satisfactory inspection within 12 months of the current renewal deadline date;

2. A list of currently employed CETs or veterinarians with day, month, and year that each individual began employment and indication of which CET is responsible for all aspects of euthanasia at the agency;

3. The proper fee; and

4. Verification of current DEA registration.

C. A renewal notice will be sent by the Board to each certificate holder at the current certified agency address in the Board's files at least 30 days prior to the renewal deadline. Failure to receive such notice will not relieve the certificate holder of the certificate holder's obligation to pay certification renewal fees in such a manner that they are received by the Board on or before the certificate renewal date.

D. A CET's or CEA's renewal certificate shall be valid for one year following the expiration date of the previously held certificate.

E. The fee for any certificate holder who fails to recertify or submit the proper fee prior to the expiration date will be increased by an amount determined by the Board and specified as fees are paid.

F. Any certificate holder failing to renew a certificate within 90 days of the expiration date will be considered to have forfeited the certificate. If 90 days have passed, the CET or CEA must reapply to the Board for an initial certificate to function as a CET or CEA and pay the required fee.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1098. Unprofessional conduct

For the purposes of implementing the provisions the Board further defines unprofessional conduct as follows:

A. Violation of any state or federal statute of administrative rule regulating the practice of animal euthanasia, including any statute or rule defining or establishing standards of animal euthanasia or professional conduct or practice;

B. Cruel or inhumane treatment of animals;

C. Incompetence, negligence, cruelty or use of any practice or procedure

in the practice of animal euthanasia, which creates an unreasonable risk of physical harm to the animal, staff or practice;

D. Possession, use, addiction to, diversion or distribution of controlled substances in any way other than for legitimate euthanasia purposes, or violation of any drug law;

E. Failure to cooperate with an investigation or inspection authorized by the Board;

F. Failure to maintain sanitary facilities or apply sanitary procedures for euthanizing animals;

G. Practicing as a CEA or as a CET without current certificate;

H. Willful or repeated violations of rules established by this Board, any health agency or authority of the state or political subdivision thereof;

I. Resorting to fraud, misrepresentation or deception in the euthanasia of an animal;

J. Failure to have current DEA registration;

K. Failure to report to the Board termination of change of employment for a CET within 10 days;

L. Euthanasia of an animal for which the CET has not received training.

M. Failure to report any suspected zoonotic disease as required by law.

N. Failure to dispose of the carcass in an approved manner.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

Subchapter 10. Prescription Horse Shoeing

§ 1101. Generally

The Board shall oversee the proper practice of prescription horse shoeing.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1102. Qualifications

Only those farriers with advanced training in prescription horse shoeing shall be permitted to do prescription horse shoeing.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1103. Services

The Board may adopt rules and regulations pertaining to and limiting prescription horse shoeing.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.

§ 1104. Responsibility

A. Farriers whom conduct prescription horse shoeing activities previously covered in this Act without the approved consent of a licensed veterinarian shall be solely liable for their actions.

B. Farriers whom conduct prescription horse shoeing shall record and maintain records for three years for all treatments done.

C. Failure to meet the standards of this Section may be referred to the Board for corrective actions.

History

CJY-27-07, July 20, 2007. Effective date October 1, 2007.