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Bill Pr44

An Act respecting The Ontario Barber Association

Ms DiNovo

Private Bill

1st Reading February 24, 2011
2nd Reading
3rd Reading
Royal Assent

Printed by the Legislative Assembly of Ontario



EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

An Act respecting The Ontario Barber Association

Preamble

The Ontario Barber Association has applied for special legislation to enable it to govern and discipline its members and to grant to its members the exclusive right to use the designations “registered student barber”, “registered apprentice barber”, “registered barber” and “registered master barber”. The applicant represents that it is a corporation.

It is appropriate to grant the application.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“Association” means The Ontario Barber Association;

“barber” means a person who performs any of the following services on a person for remuneration in a barber shop: shaving, cutting hair, clipping with scissors, clippers or other appliance, shampooing and dry shaving;

“barber shop” includes all premises or parts of premises where the services of shaving, cutting hair, clipping with scissors, clippers or other appliances, shampooing and dry shaving are provided, but does not include an establishment where such services are provided incidentally to the business of waving or dressing the hair or performing manicures or pedicures, or where cosmetic preparations, creams or artificial lighteners are applied;

“board” means the board of directors of the Association.

Association continued

2. (1) The Ontario Barber Association is continued as a corporation without share capital.

Members of association

(2) The Association is composed of its registered members.

Continuation of present board

(3) The members of the board of the Association and the officers of the Association in office immediately before this Act comes into force are continued in office until their successors are appointed or elected under this Act.

Letters patent revoked

(4) The letters patent of the Association are hereby revoked, but the revocation does not affect the rights or

obligations of the Association or any by-law, resolution or appointment of the Association except to the extent that the by-law, resolution or appointment is inconsistent with this Act.

Special Act corporation

(5) The Association is deemed to be a corporation incorporated by a special Act.

Objects

3. The objects of the Association are,

- (a) to establish, maintain and enforce a standard of professional ethics and competence among its members;
- (b) to promote and contribute to the study and practice of barbering in Ontario;
- (c) to establish beneficial relationships with other groups or associations that have similar interests;
- (d) to govern the membership of the Association in accordance with this Act and the by-laws; and
- (e) to establish, maintain, develop and enforce standards of qualification among its members for the practice of barbering, including standards regarding the knowledge, skill, efficiency, proficiency and accountability of barbers.

Powers

4. The Association has the capacity and the rights, powers and privileges of a natural person.

Board of directors

5. (1) The affairs of the Association shall be managed by its board of directors.

Elections

(2) The manner of electing the members of the board, the notice to the electors of the time and place of holding elections, the nomination of candidates, the qualifications of candidates and of voters, the presiding officers at elections, the taking and counting of votes, the filling of vacancies on the board and other necessary details relating to the election of members to the board of directors shall be as set out in the by-laws.

Term of office

(3) The term of office for a member of the board is one year and a member may be re-elected for further periods of one year each.

Meetings

(4) The time and place for meetings of the board or of the Association, the manner of calling meetings, the circumstances in which a meeting is required to be held, the conduct of a meeting and the quorum required for a meeting shall be as set out in the by-laws.

Committees

(5) The board may appoint special committees for the purpose of carrying out its objects and a special committee shall operate in accordance with any relevant by-laws.

Validity of instruments

(6) A written resolution, report, recommendation, decision, finding or order of the board or any committee of the board that is signed by all directors or persons entitled to vote on the resolution, report, recommendation, decision, finding or order, is as valid as if passed, enacted, determined or made at a meeting of the board or committee.

By-laws

6. (1) The board may pass by-laws regarding such matters as are necessary to conduct the business and carry out the objects of the Association.

Same

(2) Without restricting the generality of subsection (1), the board may pass by-laws,

- (a) governing admission to the Association and registration as a member, and the renewal of such registration;
- (b) regulating and governing the conduct of members of the Association in the practice of their business or profession, by prescribing a code of ethics, rules of professional conduct and standards of practice;
- (c) providing for the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence or for contravention of the by-laws;
- (d) governing the investigation of complaints against a member;
- (e) recognizing schools and barbering courses that provide the training required to become a registered member of the Association;
- (f) governing the holding and conduct of examinations of candidates for registration as registered apprentice barbers, registered barbers and registered master barbers under this Act;
- (g) governing the powers, duties and qualifications of officers or employees of the Association and of members of the board, and governing their election or appointment;
- (h) respecting the maintenance of a register of persons admitted as members of the Association and prescribing reasons for which a member may be removed from the register and the conditions for re-admission;

- (i) respecting the application of the funds of the Association and the acquisition or disposition of real or personal property;
- (j) providing for the reimbursement of members of the board of directors for necessary expenses incurred in relation to the business of the Association; and
- (k) prescribing fees payable to the Association, requiring that a fee be paid or exempting a member from the payment of a fee.

Public access

(3) The by-laws shall be open for examination by the public at the head office of the Association during normal working hours.

Membership and registration

7. (1) The Association shall grant membership in the Association in one of the following classes of membership to any individual who applies for it in accordance with the by-laws and meets the requirements established by this Act and by the Association for registration in the applicable class:

1. Registered student barber.
2. Registered apprentice barber.
3. Registered barber.
4. Registered master barber.

Registered student barber

(2) The requirements for registration as a registered student barber are that the candidate,

- (a) is at least 15 years of age;
- (b) has successfully completed grade 9 in Ontario or has achieved an equivalent level of education; and
- (c) is enrolled in a barbering course recognized by the Association or apprentices under a registered barber or registered master barber in a barber shop.

Registered apprentice barber

(3) The requirements for registration as a registered apprentice barber are that the candidate,

- (a) is at least 16 years of age;
- (b) has successfully completed grade 9 in Ontario or has achieved an equivalent level of education;
- (c) has successfully completed,
 - (i) a barbering course recognized by the Association, or
 - (ii) an apprenticeship under a registered barber or master barber in a barber shop; and
- (d) has successfully passed an examination conducted by the Association for qualification as a registered apprentice barber.

Registered barber

(4) The requirements for registration as a registered barber are that the candidate,

- (a) is at least 18 years of age;
- (b) has successfully completed grade 12 in Ontario or has achieved an equivalent level of education;
- (c) has been employed in a barber shop as a registered apprentice barber for at least one year and in the course of such employment has acquired at least 1,500 hours of practical experience under the supervision of a registered barber or registered master barber; and
- (d) has successfully passed an examination conducted by the Association for qualification as a registered barber.

Registered master barber

- (5) The requirements for registration as a registered master barber are that the candidate,
- (a) is at least 20 years of age;
 - (b) has successfully completed grade 12 in Ontario or has achieved an equivalent level of education;
 - (c) has been employed in a barber shop as a registered barber for at least two years and in the course of such employment has acquired at least 4,500 hours of practical experience;
 - (d) has successfully passed an examination conducted by the Association for qualification as a registered master barber; and
 - (e) has taken at least one course on a specialized barbering technique from a school recognized by the Association.

Practising barbers

- (6) A person who is a practising barber in Ontario on the day this Act comes into force and who has five or more years of experience as a barber is entitled to be registered as,
- (a) a registered barber, upon proof of such experience; or
 - (b) a master barber, upon proof of such experience and upon successfully passing an examination conducted by the Association for qualification as a registered master barber.

Same

(7) A person who is a practising barber in Ontario on the day this Act comes into force and who has less than five years of experience as a barber is entitled to be registered as a registered apprentice barber, registered barber or registered master barber upon successfully passing the appropriate examination conducted by the Association.

Barbers from other jurisdictions

- (8) A person who was a barber in a jurisdiction other than Ontario and who becomes a resident of Ontario is entitled to be registered as a registered barber upon proof that he or she,
- (a) has received training as a barber in a school or barber shop and has obtained at least 1,500 hours of practical experience; or

- (b) is licensed or registered as a barber in the other jurisdiction.

Member of CIAO

(9) A person who is a member of the Cosmetology Industry Association of Ontario is entitled to be registered as a registered barber upon providing proof that he or she holds a valid certificate of qualification as a cosmetologist issued under the *Apprenticeship and Certification Act, 1998* and upon paying the fee prescribed by by-law.

Examiners Committee

8. (1) The board of directors of the Association shall appoint an Examiners Committee, which shall be composed only of master barbers.

Same

(2) The number of members on the Examiners Committee, the manner of appointing them, the qualifications for membership on the committee, the term of office of members, the filling of vacancies and other necessary details shall be as set out in the by-laws.

Chief examiner

(3) The Examiners Committee shall elect a chief examiner from amongst its members and that person shall also serve as the Committee's chair.

Duties of chief examiner

- (4) The chief examiner shall,
- (a) ensure that any examination conducted by the Association adheres to the provisions of this Act and the by-laws;
 - (b) call the meetings of the Committee; and
 - (c) determine the examination dates.

Examinations

9. (1) The Examiners Committee shall meet at least twice each year to conduct examinations of applicants for qualification as registered apprentice barbers, registered barbers and registered master barbers.

Tests

(2) Notice of examination days, eligibility for application or reapplication for an examination, the form and manner of an application or reapplication for examination and the conduct of the examinations and other necessary details shall be as set out in the by-laws.

Results

(3) The Committee shall report to the board of directors when a candidate has passed an examination.

Certificate of registration

10. The Association shall issue to each registered member a certificate of registration indicating the class of the member's registration.

Registrar

11. (1) The board shall appoint a registrar and the registrar shall perform the functions assigned to him or her

by this Act and such other duties as may be assigned to him or her by the board.

Register of members

(2) The registrar shall keep a register showing the names of all of the members of the Association in good standing and each member's class of membership.

Effect of membership

(3) Only those persons whose names appear in the register are members entitled to the privileges of membership in the Association.

Public access

(4) The register shall be open for examination by the public at the head office of the Association during normal working hours but no personal information, including a member's address, date of birth or social insurance number, shall be made public.

Validity of registration

(5) A registration is valid for one year and shall be renewed annually by the registrar upon application and payment of the fees prescribed by by-law.

Removal of registration

(6) If a person does not renew his or her registration within 90 days after its expiry, his or her name may be temporarily removed from the register until the annual fee is paid.

Removal from register

(7) Any member who has been removed from the register for more than 6 months shall be considered not to be registered and shall be subject to subsection 13 (2).

Appeals

12. (1) A person who has been refused membership or a certificate of registration or who has been subject to a disciplinary sanction under the by-laws may appeal to the Divisional Court from the refusal or from the sanction.

Record

(2) Upon being notified of an appeal to the Divisional Court under subsection (1), the registrar shall file in the Divisional Court a record of the proceeding being appealed, including the documents received in evidence and the decision being appealed.

Appeal on law or fact

(3) An appeal under this section may be made on questions of law or fact, or both.

Powers of the court

(4) The court may confirm, vary or rescind the decision being appealed, may exercise all the powers of the Association or of its board or any committee and may direct the Association, its board or committee to take any action that it is empowered to take, and, for such purposes,

the court may substitute its opinion for that of the Association, its board or committee, or the court may refer the matter back for rehearing in whole or in part, in accordance with such directions as the court considers proper.

Designation

13. (1) Every member of the Association may use the designation "registered student barber", "registered apprentice barber", "registered barber" or "registered master barber" as appropriate for his or her class of membership.

Offence

(2) A person in Ontario who is not a registered member of the Association is guilty of an offence if the person,

- (a) takes or uses the designation "registered student barber", "registered apprentice barber", "registered barber" or "registered master barber", either alone or together with any other word, name, title, initial or description; or
- (b) implies, suggests or holds out that he or she is a registered member of the Association.

Evidence

(3) In every case where registration is an issue, the production of a copy of the register, certified by the registrar, is sufficient evidence of all persons who are registered and their class of membership in lieu of the production of the original register, and a certificate attached to the copy of the register purporting to be signed by a person in the capacity as registrar is proof, without any further proof and in the absence of evidence to the contrary, that such a person is the registrar.

Same

(4) The absence of the name of any person from a copy of the register produced under subsection (3) is proof, in the absence of evidence to the contrary, that the person is not a registered member of the Association.

Right to practise as a barber

14. This Act does not affect or interfere with the right of any person who is not a member of the Association to practise as a barber in the Province of Ontario.

Surplus

15. Any surplus derived from carrying on the affairs and business of the Association shall be devoted and applied solely in promoting and carrying out its objects and purposes and shall not be divided among its members.

Commencement

16. This Act comes into force on the day it receives Royal Assent.

Short title

17. The short title of this Act is the *Ontario Barber Association Act, 2011*.