

STATE BOARD OF COSMETOLOGY

Enabling Laws

Act 791 of 2007
A.C.A. §17-26-101 et seq.

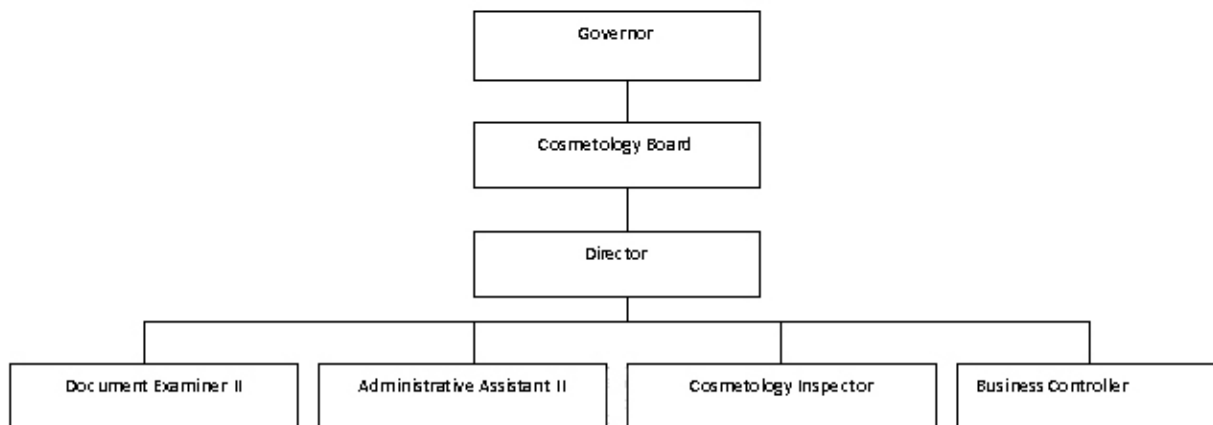
History and Organization

The Arkansas State Board of Cosmetic Therapy was created in 1925 to protect the public through the regulation of the practice of Cosmetology. Act 358 of 1955 created the State Board of Cosmetology and provides the basic authority from which the Board operates today.

The mission is to protect the public welfare by establishing, maintaining, and enforcing appropriate standards of competency and practice in the Cosmetology Profession.

Statutory responsibility is to regulate the vocation of cosmetic therapy; develop and maintain a curriculum of study; develop and conduct examinations for registration and licensing of applicants; register and regulate the conduct and sanitation of cosmetological establishments and schools; adopt rules and regulations to carry out the provisions of the Cosmetology Code; and determine penalties for violation of the Code and regulations promulgated by the Board.

The primary activities: 1) Administer the licensure examination on a monthly basis to qualified applicants pursuing licensure in the following occupational areas (Cosmetologists, Aestheticians, Electrologists, Manicurists, Cosmetology and Electrology Instructors); 2) Grant certification to those who pass the examinations and otherwise qualify, 3) Determine whether those who apply for license by reciprocity are qualified to practice; (4) Register and issue renewable licenses to practitioners and cosmetological establishments; (5) Inspect cosmetological establishments and schools for compliance with licensing code and health and safety regulations; (6) Investigate violations of the Cosmetology Act and where appropriate take disciplinary action after conducting a hear; (7) Monitor mandatory continuing education on Instructors who hold licenses to practice.



Agency Commentary

The Arkansas State Board of Cosmetology operates from two appropriations, Cosmetology Operations (053) and Disciplinary Hearings (850). Agency operations are funded from the receipt of fees as established by the Board pursuant to A.C.A. §17-26-09.

The Board requests continuation of Base Level for the 2009-2011 biennium with the following Change Level requests:

Cosmetology Operations (053) - Fund SXC0100

This appropriation is funded from the fees collected by the Board pursuant to A.C.A. §17-26-209 to support the agency's daily operations and to carry out the responsibilities of the Board to conduct examinations, maintain a system for issuing certificates of registration and licenses, conduct health and safety inspections/operations audits, conduct meetings and maintain a principle office that provides administrative support to the Board.

The Base Level request for this appropriation is \$714,711 for FY10 and \$723,875 for FY11. The Board is requesting to reallocate \$21,200 each fiscal year from Data Processing to Operating Expenses resulting in a net increase request in appropriation of \$9,850 each fiscal year. The additional appropriation is requested to cover the increase in office rent, mileage and meals/lodging in anticipation of the Board's decision to resume testing in-house. The reallocation from Data Processing to Operating Expenses of \$15,700 will allow for the correct expenditure of appropriation for network and technical services; the reallocation to Professional Fees of \$5,500 will allow sufficient appropriation to purchase testing materials.

Disciplinary Hearings (850) - Fund NBC0000

This appropriation is funded from the penalties assessed by the Board pursuant to the authority granted in A.C.A. §17-26-101 et seq. Use of this appropriation is currently limited to those expenses associated with disciplinary hearings (i.e. court reporter, subpoenas, witnesses and expenses), enforcement actions and investigations, as well as development and staffing needs for educational training purposes as outlined in A.C.A. §17-26-104(c)(5)(C).

The Base Level request for this appropriation is \$10,764 each fiscal year. The Board is requesting additional appropriation of \$29,236 each fiscal year to bring the total authorized for expenses associated with disciplinary hearings and training to \$40,000 each year. The Board processes Notice of Violation letters, Notice and Orders for Board Hearings as well as Notice of Findings and mails them via Certified Mail/Return Receipt for legal purposes. A court reporter is always retained for the hearings and if necessary, an interpreter is also used to assist non-English speaking licensees so they can fully participate in the hearing process. The additional appropriation is needed to ensure that all hearing related expenditures are recorded in this appropriation and not in the agency operations appropriation.

Anticipated receipts generated from fees/penalties are sufficient to support the Board's Biennial Budget Request.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS STATE BOARD OF COSMETOLOGY

FOR THE YEAR ENDED JUNE 30, 2005

Findings	Recommendations
None	None

Employment Summary

	Male	Female	Total	%
White Employees	1	6	7	88 %
Black Employees	0	1	1	12 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			1	12 %
Total Employees			8	100 %

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
Rules and Regulations	A.C.A. 17-26-205 (a) (D)	N	N	1,200	Required by Law. All new licensees receive copy.

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation	2007-2008		2008-2009		2008-2009		2009-2010					2010-2011						
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
053 Operations	768,448	10	669,729	10	762,001	10	714,711	10	724,561	10	724,561	10	723,875	10	733,725	10	733,725	10
850 Disciplinary Hearings	7,324	0	10,764	0	10,764	0	10,764	0	40,000	0	40,000	0	10,764	0	40,000	0	40,000	0
Total	775,772	10	680,493	10	772,765	10	725,475	10	764,561	10	764,561	10	734,639	10	773,725	10	773,725	10

Funding Sources		%		%		%		%		%		%		%		%			
Fund Balance	4000005	1,075,866	61.0	987,656	82.3			519,392	18.8	519,392	18.5	519,392	18.5	2,040,621	91.8	2,040,621	90.2	2,040,621	90.2
Special Revenue	4000030	645,995	36.6	169,729	14.1			2,233,440	80.7	2,243,290	80.0	2,243,290	80.0	170,150	7.7	180,000	8.0	180,000	8.0
Cash Fund	4000045	41,567	2.4	42,500	3.5			13,264	0.5	42,500	1.5	42,500	1.5	13,264	0.6	42,500	1.9	42,500	1.9
Total Funds		1,763,428	100.0	1,199,885	100.0			2,766,096	100.0	2,805,182	100.0	2,805,182	100.0	2,224,035	100.0	2,263,121	100.0	2,263,121	100.0
Excess Appropriation/(Funding)		(987,656)		(519,392)				(2,040,621)		(2,040,621)		(2,040,621)		(1,489,396)		(1,489,396)		(1,489,396)	
Grand Total		775,772		680,493				725,475		764,561		764,561		734,639		773,725		773,725	

Actual exceeds Authorized and Budget in Operations [053] due to a higher amount in Operating Expenses in FY08.

Agency Position Usage Report

FY2006 - 2007						FY2007 - 2008						FY2008 - 2009					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Total	Total	Filled	Unfilled			Total	Total	Filled	Unfilled	
10	10	0	10	0	0.00 %	10	9	1	10	0	10.00 %	10	8	2	10	0	20.00 %

Analysis of Budget Request

Appropriation: 053 - Operations

Funding Sources: SXC - Cosmetology - Special Revenue

Arkansas Code Annotated §17-26-201 authorized the State Board of Cosmetology consisting of ten members appointed by the Governor. The members of the Board may not be directly or indirectly connected to the wholesale business or the manufacture, rental, sale, or distribution of cosmetological appliances or supplies. The Board is responsible for holding examinations, issuing certificates of registration and licenses, registering cosmetological establishments and schools of cosmetology, approving disbursement of funds, adopting rules and regulations, and enforcing the rules and regulations adopted. Funding is derived from special revenues received from the collection of license fees, and all funds remaining at the end of each fiscal year carry forward. This appropriation is utilized for the operating expenses for examinations, certifications, licenses, inspections, and other Board related activities.

The Base Level unclassified position was changed to classified and the current classified positions reflect the recommendations of the Pay Plan Study. Salaries were adjusted accordingly. A 2.3% Cost of Living Allowance is reflected in the second year of the biennium. The Base Level request for Regular Salaries may include board member Stipend payments and Career Service payments for eligible employees. Personal Services Matching includes a \$75 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$425.

The Board requests a net increase of \$9,850 for each year of the biennium. The increase is for office rent, and travel related expenses in anticipation of the Board's decision to resume testing by the Board. The Board requests a reallocation of resources to properly classify \$21,200 for FY10 and FY11 from Data Processing to Operating Expenses of \$15,700 for support and maintenance of their licensure database and \$5,500 to Professional Fees to cover purchase of testing materials in anticipation of the Board's decision to resume testing by the Board.

The significant increase in funding from the 2007-2009 biennium to the 2009-2011 biennium is due to Act 223 of 2007, which changed the fee structure allowing the Board to promulgate a fee schedule by rule and collect fees accordingly. The Board has increased fees during the current biennium. The Act also changed the expiration date of cosmetologists, instructors, electrologists, aestheticians, and manicurists to the licensee's birthday on a biennial basis. Licenses for schools and establishments either expire annually on December 31, biennially on December 31, or biennially on the owner's birthday in conjunction with that individual's license. Timing of the majority of the license renewals being received in the first year reduces income in the second year of the biennium.

Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 053 - Operations

Funding Sources: SXC - Cosmetology - Special Revenue

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2007-2008 Actual	2008-2009 Budget	2008-2009 Authorized	2009-2010			2010-2011		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	246,393	263,484	256,214	293,236	293,236	293,236	300,828	300,828	300,828
#Positions		10	10	10	10	10	10	10	10	10
Personal Services Matching	5010003	100,909	94,875	99,625	110,105	110,105	110,105	111,677	111,677	111,677
Operating Expenses	5020002	369,611	251,321	310,881	251,321	276,871	276,871	251,321	276,871	276,871
Conference & Travel Expenses	5050009	3,428	6,349	6,349	6,349	6,349	6,349	6,349	6,349	6,349
Professional Fees	5060010	30,750	32,500	47,500	32,500	38,000	38,000	32,500	38,000	38,000
Data Processing	5090012	17,357	21,200	41,432	21,200	0	0	21,200	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		768,448	669,729	762,001	714,711	724,561	724,561	723,875	733,725	733,725
Funding Sources										
Fund Balance	4000005	685,529	563,076		63,076	63,076	63,076	1,581,805	1,581,805	1,581,805
Special Revenue	4000030	645,995	169,729		2,233,440	2,243,290	2,243,290	170,150	180,000	180,000
Total Funding		1,331,524	732,805		2,296,516	2,306,366	2,306,366	1,751,955	1,761,805	1,761,805
Excess Appropriation/(Funding)		(563,076)	(63,076)		(1,581,805)	(1,581,805)	(1,581,805)	(1,028,080)	(1,028,080)	(1,028,080)
Grand Total		768,448	669,729		714,711	724,561	724,561	723,875	733,725	733,725

The FY09 Budget amount in Regular Salaries exceeds the Authorized amount due to salary adjustments during the 2007-2009 biennium.

Actual exceeds Authorized in Personal Services Matching due to a transfer from the Salary Holding Account.

Actual exceeds Authorized and Budget in Operating Expenses due to an authorized appropriation of \$421,081 in FY08.

Change Level by Appropriation

Appropriation: 053 - Operations
Funding Sources: SXC - Cosmetology - Special Revenue

Agency Request

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	714,711	10	714,711	100.0	723,875	10	723,875	100.0
C01	Existing Program	9,850	0	724,561	101.4	9,850	0	733,725	101.4
C04	Reallocation	0	0	724,561	101.4	0	0	733,725	101.4

Executive Recommendation

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	714,711	10	714,711	100.0	723,875	10	723,875	100.0
C01	Existing Program	9,850	0	724,561	101.4	9,850	0	733,725	101.4
C04	Reallocation	0	0	724,561	101.4	0	0	733,725	101.4

Justification

C01	The Board requests an increase in Operating Expenses of \$9,850 for FY10 and FY11, this will cover the increase in office rent, mileage, and meals and lodging in anticipation of the Board's decision to resume testing by the Board.
C04	The agency requests a reallocation of resources from Data Processing of \$21,200 for FY10 and FY11 to Operating Expenses of \$15,700 for network services and miscellaneous technical services expense and Professional Fees of \$5,500 to cover purchase of testing materials in anticipation of the Board's decision to resume testing by the Board.

Analysis of Budget Request

Appropriation: 850 - Disciplinary Hearings

Funding Sources: NBC - Cash in Treasury

The Board of Cosmetology is authorized under Arkansas Code Annotated §17-26-208 to initiate investigations and conduct administrative disciplinary hearings. This appropriation allows the Board to pay expenses of administrative hearings of licensed cosmetologists. In settlement of some disciplinary matters, penalties are assessed rather than license suspension or revocation. The penalties are deposited as cash.

The Board requests a Change Level of \$29,236 for both years of the biennium in Operating Expenses. The increase is for postage; due to increases in postal rates, office supplies, and for the retention of a court reporter for hearings and an interpreter when necessary to assist non-English speaking licensee to participate in the hearings. These expenses have not been previously paid from this fund although it is intended to cover such services.

Executive Recommendation provides for the Agency Request. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: 850 - Disciplinary Hearings

Funding Sources: NBC - Cash in Treasury

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			2010-2011		
		2007-2008 Actual	2008-2009 Budget	2008-2009 Authorized	2009-2010			Base Level	Agency	Executive
Operating Expenses	5020002	7,324	10,764	10,764	10,764	40,000	40,000	10,764	40,000	40,000
Conference & Travel Expenses	5050009	0	0	0	0	0	0	0	0	0
Professional Fees	5060010	0	0	0	0	0	0	0	0	0
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		7,324	10,764	10,764	10,764	40,000	40,000	10,764	40,000	40,000
Funding Sources										
Fund Balance	4000005	390,337	424,580		456,316	456,316	456,316	458,816	458,816	458,816
Cash Fund	4000045	41,567	42,500		13,264	42,500	42,500	13,264	42,500	42,500
Total Funding		431,904	467,080		469,580	498,816	498,816	472,080	501,316	501,316
Excess Appropriation/(Funding)		(424,580)	(456,316)		(458,816)	(458,816)	(458,816)	(461,316)	(461,316)	(461,316)
Grand Total		7,324	10,764		10,764	40,000	40,000	10,764	40,000	40,000

Change Level by Appropriation

Appropriation: 850 - Disciplinary Hearings

Funding Sources: NBC - Cash in Treasury

Agency Request

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	10,764	0	10,764	100.0	10,764	0	10,764	100.0
C01	Existing Program	29,236	0	40,000	371.6	29,236	0	40,000	371.6

Executive Recommendation

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	10,764	0	10,764	100.0	10,764	0	10,764	100.0
C01	Existing Program	29,236	0	40,000	371.6	29,236	0	40,000	371.6

Justification

C01	These expenses are related to the processing of Notice of Violation letters, Notice and Orders for Board Hearings, Notice of Findings. All documents related to this process are sent via Certified Mail/Return Receipt for legal purposes. Also, a court reporter is always retained for these hearings and an interpreter is sometimes necessary to assist the non-English speaking licensee to fully participate in the hearing process. These expenses have not previously been paid from this fund although it is intended to cover such services.
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