



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2018-13

The Honorable Melissa McLawhorn Houston  
Commissioner of Labor  
3017 N. Stiles, Suite 100  
Oklahoma City, OK 73105-5212

October 25, 2018

Dear Commissioner Houston:

This office has received your request for an Official Attorney General Opinion in which you ask, in effect, the following questions:

1. Under 59 O.S. § 4003, is a qualifying applicant for licensure or certification entitled to a waiver of fees associated with *both* a temporary license or certificate *and* a subsequent permanent license or certificate to practice the same profession?
2. Under 59 O.S. § 4003, which entitles qualifying applicants to “a one-time one-year waiver of any fees associated with” professional licensure or certification, what is the specific timeframe encompassed by the term “one-year”?
3. Under 59 O.S. § 4003, is a qualifying applicant for licensure or certification entitled to a one-time one-year waiver of fees associated with obtaining a license or certificate for more than one profession or occupation?
4. Does the phrase “any fees” as used in 59 O.S. § 4003 include fees passed through, but not retained by, the board or agency that issues the license or certification?
5. Does 59 O.S. § 4003 apply to applications to renew existing licenses and certificates or is it limited to applications for new licenses and certificates?
6. Does the term “low-income individual” as used in 59 O.S. § 4003 include enrollees in *any* government assistance program or only one of the enumerated programs? If a person is enrolled in a qualifying assistance program, must his or her household income also be less than 140% of the federal poverty line, or another agency-specified threshold, to qualify for a fee waiver?
7. To what state entity does the term “executive branch department that oversees business regulation” as used in 59 O.S. § 4003 refer?

**8. Are state entities covered by the fee waiver provision of 59 O.S. § 4003 required to begin granting such fee waivers on November 1, 2018 regardless of whether those entities have promulgated rules to implement the provisions of this section?**

**I.  
BACKGROUND**

During the 2018 legislative session, the Legislature passed House Bill 2933, which provides as follows:

A. Except for health care professions, every administrative body, state agency director or official with authority over any occupational or professional license or certification, and each of the respective examining and licensing boards, upon presentation of satisfactory evidence that an applicant for licensure or certification is a low-income individual, shall grant a one-time one-year waiver of any fees associated with such licensure or certification. For purposes of the section, "low-income individual" means an individual who is enrolled in a state or federal public assistance program, including, but not limited to, the Temporary Assistance for Needy Families, Medicaid or the Supplemental Nutrition Assistance Program, or whose household adjusted gross income is below one hundred forty percent (140%) of the federal poverty line or a higher threshold to be set by the executive branch department that oversees business regulation.

2018 Okla. Sess. Laws ch. 284, § 1. The legislation directs “every administrative body, state agency director or official with authority over any occupational or professional license or certification, and each of the respective examining and licensing boards” (collectively, “Licensing Bodies”) to “promulgate rules to implement the provisions of this section.” *Id.*<sup>1</sup> The provisions of House Bill 2933 become effective on November 1, 2018, *see id.* § 2, and will be codified as Section 4003 of Title 59 of the Oklahoma Statutes.

**II.  
DISCUSSION**

Your questions present a number of practical issues that Licensing Bodies must grapple with in implementing the mandate of Section 4003. These issues are addressed in the order presented.

**A. Under Title 59, Section 4003(A), a qualifying applicant is entitled to a single waiver of all fees associated with one year of licensure to practice a particular profession.**

This section addresses your first two questions regarding the number of fee waivers—and length of time covered by such waivers—that a qualifying applicant is entitled to under Section 4003. As noted above, Section 4003 requires Licensing Bodies other than those regulating “health care

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<sup>1</sup> For the sake of simplicity for the reader, the broad phrase “occupational or professional license or certification” used in the statute will be referred to herein simply as a “professional license.” This shorthand is for convenience only and does not signify any limiting of the statutory language.

professions” to grant certain low-income applicants a “*one-time one-year* waiver of any fees associated with” applying for a professional license. 59 O.S. § 4003(A) (emphasis added).<sup>2</sup> The term “one-time” is not defined by the statute and therefore is “to be understood in [its] ordinary sense.” 25 O.S.2011, § 1. When used as an adjective, “one-time” means “only once.” THE AMERICAN HERITAGE DICTIONARY 868 (2d college ed. 1985). Accordingly, Section 4003 entitles qualifying applicants to one waiver of fees associated with applying for a professional license.

In addition to being a “one-time” waiver, the fee waiver in Section 4003 is further qualified as a “one-year” waiver. Because the term “one-year” is not defined in statute, it must also be given its ordinary meaning. 25 O.S.2011, § 1. Used as an adjective, the term “one-year” is commonly thought to measure a 12-month, 52-week, or 365-day period. Thus, in the context of Section 4003, the term “one-year” is a measure of the fees associated with holding a license to practice a particular profession for a full year, whether the Licensing Body measures that period for professional licensing purposes as 12 months, 52 weeks, or 365 days.

Based on the foregoing, the “one-time one-year” fee waiver in Section 4003 entitles a qualifying applicant to a waiver of fees associated with holding a license to practice his or her profession for a period of 365 days following the application.<sup>3</sup> In cases where an applicant first applies for a temporary or limited-term professional license before securing a standard license to practice the same profession,<sup>4</sup> the “one-time” waiver shall apply to all fees associated with applying for and holding such license(s) for a period of 12 months, 52 weeks, or 365 days. The specific manner in which such a waiver is applied for and administered by a Licensing Body should be addressed in that Licensing Body’s administrative rules. *See* 59 O.S. § 4003(B).

**B. Under Title 59, Section 4003(A), a qualifying applicant is entitled to a “one-time one-year waiver of any fees” associated with *each* professional license for which he or she applies.**

Your third question involves the scenario in which a single qualifying individual applies for multiple licenses to practice distinct professions. This scenario could arise whether the licenses are all issued by a single Licensing Body or each by a separate Licensing Body.<sup>5</sup> In either case, however, the applicability of Section 4003 is the same: the applicant is entitled to a fee waiver for

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<sup>2</sup> While Section 4003 is not yet effective, for ease of reference we cite to its provisions as we normally would for provisions currently in effect.

<sup>3</sup> If a Licensing Body offers only multi-year licenses, Section 4003 entitles a qualifying applicant to a waiver of fees prorated to one year. For example, if a license lasts for two years, the applicant would be entitled to a waiver of one-half of the fees associated with that license.

<sup>4</sup> For instance, the Insurance Commissioner may issue a “temporary license not to exceed one hundred eighty (180) days.” 36 O.S.2001, § 1435.12(A); *see also* OAC 365:1-9-16(e) (“The temporary license shall be valid for up to one hundred eighty (180) days from the date of issuance, or until the applicant passes the license examination, whichever time is shorter.”). Therefore, an applicant would be entitled to receive a fee waiver for the 180-day temporary license and for the remaining 185 days of licensure for that full year.

<sup>5</sup> For instance, the Department of Labor is the Licensing Body responsible for licensing, among others, welders and locksmiths, *see* 59 O.S.2011, §§ 1629, 1800.9, while Licensing Bodies such as the Accountancy Board are focused on a single profession. *See* 59 O.S.2011, § 15.9.

each professional license for which he or she applies. This conclusion follows the text of Section 4003 itself, which provides, in relevant part, that:

*every* administrative body, state agency director or official with authority over *any occupational or professional license or certification*, and each of the respective examining and licensing boards, upon presentation of satisfactory evidence that an applicant for licensure or certification is a low-income individual, shall grant a one-time one-year waiver of *any fees* associated with *such licensure or certification*.

59 O.S. § 4003(A) (emphasis added). In essence, Section 4003 directs *every* Licensing Body with authority over *any* professional license to waive *any* fees associated with obtaining *such* license for qualifying applicants. There is nothing in this statutory directive to suggest that an otherwise-qualifying applicant would be ineligible for a fee waiver simply because the applicant also holds or is applying for an entirely different professional license. In the absence of such a limitation, we are not at liberty to insert one. *See Cox v. State ex rel. Dept. of Human Servs.*, 2004 OK 17, ¶ 26, 87 P.3d 607, 617 (“This Court does not read exceptions into a statute nor may we impose requirements not mandated by the Legislature.”). Accordingly, Section 4003 entitles a qualifying applicant to a “one-time one-year” fee waiver for each professional license he or she applies for.

**C. The term “any fees” used in Title 59, Section 4003(A) includes fees associated with professional licensure that are not retained by the Licensing Body.**

In your fourth question, you ask whether a Section 4003 waiver of “any fees associated with...licensure or certification” includes fees that are collected, but not retained, by the Licensing Body.<sup>6</sup> As with the preceding question, this one is similarly answered by the broad language of Section 4003. Specifically, the statute provides that a Licensing Body “shall grant a one-time one-year waiver of *any fees associated with* such licensure or certification.” 59 O.S. § 4003(A) (emphasis added). “The term ‘any’ is all-embracing and means nothing less than ‘every’ and ‘all.’” *JPMorgan Chase Bank, N.A. v. Specialty Restaurants, Inc.*, 2010 OK 65, ¶ 16, 243 P.3d 8, 14. The term “associated with” also has an expansive meaning, commonly referring to items “join[ed] or connect[ed] in any of various intangible or unspecified ways.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 132 (3d ed. 2002). By employing such broad language, the Legislature made clear that a Section 4003 fee waiver encompasses *all* fees necessary to obtain a professional license from a Licensing Body, regardless of whether the Licensing Body retains the entire fee amount or redirects portions to a separate entity.

**D. The fee waiver in Title 59, Section 4003(A) applies to both new applicants for professional licenses and those applying to renew existing licenses.**

With regard to your fifth question, Section 4003 provides for waivers of fees for licensure or certification for qualifying *applicants*. While not specifically defined in Section 4003, the word

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<sup>6</sup> By way of example, certain occupations involved in the horse racing industry must be licensed by the Oklahoma Horse Racing Commission. 3A O.S.Supp.2017, § 204.2(A). The fees associated with such licensure include an amount for fingerprinting the applicant, which is collected by the Commission but is deposited in Oklahoma State Bureau of Investigation Revolving Fund. *Id.* § 204.2(E).

“applicant” is defined in other professional licensing provisions of Title 59 as, for instance, “an individual or entity that has made application to the Board for a certificate, license, or permit and said application has not been approved,” *see* 59 O.S.Supp.2017, § 15.1A(3) (Oklahoma Accountancy Act), and “any person submitting an application for licensure to the Board,” *see* 59 O.S.2011, § 161.3(3) (Oklahoma Chiropractic Practice Act). *See also* 25 O.S.2011, § 2 (“Whenever the meaning of a word or phrase is defined in any statute, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears.”). This is consistent with the common understanding of “applicant”: “one who makes a formal request especially for something of benefit to himself.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 105 (3d ed. 2002).

Notably, none of these definitions of “applicant” distinguish between those seeking a professional license for the first time and those seeking to renew an existing license or reactivate an inactive license. As noted above, we are not at liberty to insert additional requirements or limitations into a statute where they do not exist. *See, e.g., Cox*, 2004 OK 17, ¶ 26, 87 P.3d at 617. Thus, the fee waiver in Section 4003 is available to any qualifying individual applying to a Licensing Body for the issuance, renewal, or reinstatement of a professional license.

**E. “Low-income individuals” for the purposes of Title 59, Section 4003 includes enrollees in a state or federal government assistance program and those whose household income falls below certain thresholds.**

Your sixth question seeks clarification as to who qualifies as a “low-income individual” eligible for a fee waiver under Section 4003. The statute defines “low-income individual” as follows:

an individual who is enrolled in a state or federal public assistance program, including, but not limited to, the Temporary Assistance for Needy Families, Medicaid or the Supplemental Nutrition Assistance Program, *or* whose household adjusted gross income is below one hundred forty percent (140%) of the federal poverty line or a higher threshold to be set by the executive branch department that oversees business regulation.

59 O.S. § 4003(A) (emphasis added). The plain language of Section 4003 sets forth two ways for a person to qualify as a “low-income individual,” which are separated by a disjunctive “or.” Thus, if a person presents “satisfactory evidence” that *either* (i) he or she is enrolled in a state or federal public assistance program, *or* (ii) his or her “household adjusted gross income” falls below the stated threshold, the person qualifies as a “low-income individual” and is entitled to the fee waiver under Section 4003. *See State ex rel. Pruitt v. Native Wholesale Supply*, 2014 OK 49, ¶ 31, 338 P.3d 613, 624 (“The use of the disjunctive ‘or’ indicates the choices are alternatives.”).

The first way in which a person would qualify as a “low-income individual” is by being “enrolled in a state or federal public assistance program, *including, but not limited to*, the Temporary Assistance for Needy Families, Medicaid or the Supplemental Nutrition Assistance Program.” 59 O.S. § 4003(A) (emphasis added). The inclusion of the phrase “including, but not limited to” indicates that the enumerated programs are not exclusive; there may be other state or federal public assistance programs that qualify an enrollee as a “low-income individual” under Section 4003. *See*

*JPMorgan Chase*, 2010 OK 65, ¶ 16, 243 P.3d at 14 (“Utilization of the word ‘including’ along with the phrase ‘without limitation’ denotes an intention of non-exclusivity.”). This means that enrollees in the programs specifically mentioned in Section 4003, as well as those enrolled in *other* federal, state, or Oklahoma-specific programs that provide assistance to persons or families of limited means, are “low-income individuals” for the purposes of Section 4003.<sup>7</sup>

**F. There is no single “executive branch department that oversees business regulation” as described in Title 59, Section 4003.**

Your seventh question refers to the second way to qualify as a “low-income individual” under Section 4003: those “whose household adjusted gross income is below one hundred forty percent (140%) of the federal poverty line *or a higher threshold to be set by the executive branch department that oversees business regulation.*” 59 O.S. § 4003(A) (emphasis added). However, there does not appear to be a single “executive branch department that oversees business regulation” in Oklahoma, and neither the Governor nor the Legislature have identified such a department. Accordingly, until the Governor identifies such a department within the executive branch, or the Legislature clarifies which decision-making body it intended to exercise this authority, the authority to set an income threshold at more than 140% of the federal poverty line cannot be exercised.

**G. Licensing Bodies to which Title 59, Section 4003 applies must begin granting fee waivers to qualifying applicants starting on November 1, 2018.**

House Bill 2933 was signed by the Governor on May 18, 2018, with an effective date of November 1, 2018. 2018 Okla. Sess. Laws ch. 284. As noted above, it requires affected Licensing Bodies to “promulgate rules to implement [its] provisions[.]” Your eighth question seeks clarification as to whether a Licensing Body must grant fee waivers to qualifying applicants beginning on November 1 even if the Licensing Body has not promulgated rules to implement Section 4003.

In short, the answer is yes. Had the Legislature intended low-income individuals to be entitled to a fee waiver *only after* the Licensing Bodies have promulgated rules to implement the provisions of Section 4003, the statute would reflect that intent. *See Odom v. Penske Truck Leasing Co.*, 2018 OK 23, ¶ 17, 415 P.3d 521, 528 (“It is presumed that the Legislature has expressed its intent in a statute’s language and that it intended what it so expressed.”). Indeed, the Legislature has, in other statutes, set forth dates by the measure must be implemented. *See, e.g.*, 68 O.S.2011, § 1354.25 (stating “the new rate shall apply to the first billing period starting on or after the effective date[.]”). Because there is nothing in Section 4003 to suggest that a Licensing Body may delay granting fee waivers to some point beyond the effective date—for instance, until such time as rules have been promulgated—the affected Licensing Bodies must begin granting fee waivers to qualifying applicants beginning on November 1, 2018.

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<sup>7</sup> Oklahoma has several such programs, most of which are set forth in Title 56 of the Oklahoma Statutes.

It is, therefore, the official Opinion of the Attorney General that:

1. The “one-time one-year waiver of fees” under 59 O.S. § 4003 includes those fees associated with *both* a temporary license or certificate *and* a subsequent permanent license or certificate to practice the same profession for a period of one year.
2. In the context of 59 O.S. § 4003, the term “one-year waiver of fees” refers to a waiver of the fees associated with holding a license or certificate to practice a particular profession for 365 days.
3. Under 59 O.S. § 4003, a qualifying applicant is entitled to a “one-time one-year waiver of any fees” associated with *each* professional license for which he or she applies.
4. The term “any fees” used in 59 O.S. § 4003 includes all fees necessary to obtain a professional license or certificate from a Licensing Body, regardless of whether the Licensing Body retains the entire fee amount or redirects a portion to a separate entity.
5. The fee waiver in 59 O.S. § 4003 applies to all qualifying applicants for a professional license or certificate, regardless of whether the application is for a new license or certificate or renewal or reinstatement of an existing or inactive license or certificate.
6. To qualify as a “low-income individual” for the purposes of 59 O.S. § 4003, a person must show by “satisfactory evidence” that *either* (i) he or she is enrolled in a state or federal government assistance program designed to assist underprivileged or low-income individuals and families, *or* (ii) his or her “household adjusted gross household income” falls below the threshold stated in Section 4003.
7. Until such time as the “executive branch department that oversees business regulation” as described in 59 O.S. § 4003 is identified by the Governor or the Legislature, there is no entity authorized to increase the “household adjusted gross household income” threshold for qualifying as a “low-income individual” to an amount higher than 140% of the federal poverty line.
8. Licensing Bodies to which 59 O.S. § 4003 applies must grant “one-time one-year” fee waivers to all qualifying applicants beginning on November 1, 2018.



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