

CHAPTER 317
FORMERLY
HOUSE BILL NO. 346
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO COSMETOLOGY AND BARBERING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5101(6), Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(6) "Cosmetology" includes any or all work done for compensation by any person, including, but not be limited to, the embellishment, cleansing and beautification of human hair, such as arranging, dressing, curling, permanent waving, cutting, singeing, ~~braiding~~, pressing, chemically bleaching or coloring, chemically straightening, or similar work, as well as the removal of superfluous hair and nail technology. The term "cosmetology" shall also include, but not be limited to, the massaging, stimulating or beautifying, or similar work, of the scalp, face, arms, hands or the upper body. All work performed under the definition of "cosmetology" may be done by hand or by mechanical or electrical devices and may include the use of cosmetic preparations, tonics, lotions or creams.

Section 2. Amend § 5101(11), Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(11) "Master barber" means any person licensed under this chapter who, for a monetary consideration, shaves or trims beards, gives facial or scalp massages, treats beards or scalps with preparations made for this purpose, or embellishes, cleans or beautifies human hair, which includes arranging, dressing, curling, permanent waving, cutting, singeing, ~~braiding~~, pressing, chemically bleaching or coloring, chemically straightening, or similar work.

Section 3. Amend § 5103(c), Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(c) ~~Under such rules and regulations as the Board may adopt,~~ This chapter shall not be construed to prohibit practice by:

(1) Persons who are licensed to practice cosmetology, barbering, electrology or nail technology in any other state, district or foreign country who, as practicing cosmetologists, barbers, electrologists or nail technicians enter this State to consult with a cosmetologist, barber, electrologist or nail technician of this State. Such consultation shall be limited to less than 30 days in any calendar year.

(2) Any student of an accredited school of cosmetology, barbering, electrology or nail technology who is receiving practical training under the personal supervision of a licensed instructor in cosmetology, barbering, electrology or nail technology.

(3) Any student who is enrolled in a work-study, student-learner, apprenticeship or similar program where the employment is an integral part of the course of study, and the employment is procured and supervised by the Delaware public school system.

(4) Any cosmetologist, barber, electrologist or nail technician, commissioned by any of the armed forces of the United States, or by the United States Public Health Service.

(5) Persons employed to demonstrate, recommend or administer cosmetic preparations, lotions, creams, makeup, perfume or hair appliances or tools intended for home use, for the purposes of effecting retail sales, if those persons neither accept payment from the consumer for that demonstration nor make the demonstration contingent upon the purchase of any product or service.

(6) Persons employed to render cosmetology or hairstyling services in the course of, and incidental to, the business or employers engaged in the theatrical, radio, television or motion picture production industries, modeling or photography.

(7) Persons authorized by the laws of this State to practice medicine and surgery, dentistry, chiropractic and similar occupations, including registered nurses, licensed practical nurses, nurses' aides,

physical therapists and physical therapy assistants, when acting within the scope of their profession or occupation.

(8) Persons engaged in the practice of hair braiding. Hair braiding does not include hair cutting, application of dyes, reactive chemicals or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair. Hair braiding may involve the use of hair extensions when the extensions are attached only by natural means.

Section 4. Amend § 5104(a), Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) The Board of Cosmetology and Barbering shall consist of 11 ~~13~~ members appointed by the Governor. With the expiration of the terms of the members in office as of April 15, 2016 ~~June 26, 2010~~, the Board composition shall be as follows: 2 cosmetologists, 1 ~~2~~-nail technicians, ~~2~~-barbers 1 barber, 1 ~~2~~ aestheticians, ~~1~~-electrologist, 1 cosmetology instructor and 5 ~~3~~ public members. To serve on the Board, a public member shall not be, nor ever have been, a cosmetologist, barber, electrologist, nail technician or aesthetician; nor a member of the immediate family of a cosmetologist, barber, electrologist, nail technician or aesthetician; shall not have been employed by a cosmetologist, barber, electrologist, nail technician or aesthetician; shall not have had a material or financial interest in the providing of goods and/or services to a cosmetologist, barber, electrologist, nail technician or aesthetician; nor have been engaged in an activity directly related to cosmetology, barbering, electrology, nail technology or aesthetics. Such public member shall be accessible to inquiries, comments and suggestions from the general public.

Section 5. Amend § 5106(a), Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) The Board of Cosmetology and Barbering shall have the power to:

(1) Formulate rules and regulations, with appropriate notice given. All rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act, Chapter 101 of Title 29. Each rule or regulation shall implement or clarify a specific section of this chapter;

(2) Designate and process the application form to be used by all applicants; however, no application form shall require a picture of the applicant, require information relating to citizenship, race, place of birth or length of state residency; nor shall it require personal references;

(3) Designate a written examination, prepared by either a national professional association or by a recognized legitimate national testing service;

(4) Provide for the administration of all examinations, subject to the approval of the Division of Professional Regulation, including notice and information to applicants;

(5) Design and administer practical examinations, subject to the approval of the Division of Professional Regulation, for cosmetology, nail technology, barbering and electrolysis, only;

(6) Grant licenses to, and renew licenses of, all persons who meet the qualifications for licensure and who have paid the appropriate fees as determined by the Division;

(7) Grant temporary licenses to all persons who qualify. Rules and regulations for the issuance of temporary licenses shall be established by the Board;

(8) Refer all complaints from licensees and the public concerning persons licensed by the Board, or concerning practices of the Board or of the profession, to the Division for investigation pursuant to § 8735 of Title 29, and assign a member of the Board to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint;

(9) Conduct hearings and issue orders in accordance with procedures established pursuant to Chapter 101 of Title 29;

(10) Where it has been determined after a disciplinary hearing that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty;

(11) Bring proceedings in the courts for the enforcement of this chapter;

(12) Take such action outlined in § 5117 of this title with regard to unlicensed practitioners;

(13) Evaluate certified records to determine whether an applicant for licensure who previously has been licensed, certified or registered in another jurisdiction to practice cosmetology, barbering, nail technology and/or electrology has engaged in any act or offense that would be grounds for disciplinary action under this chapter and whether there are disciplinary proceedings or unresolved complaints pending against such applicant for such acts or offenses;

(14) Authorize agents of the Division to inspect any shop or school where cosmetology, barbering, electrology, nail technology or aesthetics services are offered, rendered or taught, or any other place where such services are offered, rendered or taught;

(15) Require continuing education of licensees as established by Board rules and regulations; ~~and~~

(16) Prohibit the use of methyl methacrylate (MMA); and

(17) Establish by rule and regulation advanced training requirements to assure that the licensee meets accepted standards of care for different techniques and services.

Approved July 19, 2016