

CHAPTER 170
FORMERLY
SENATE BILL NO. 133

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 Chapter 51, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 5101. Definitions.

As used in this chapter:

(14) “Professional-in-charge” means a licensee who is responsible for the operation of a cosmetology shop, including ensuring that all employees are licensed, where required by law.

~~(14)~~ (15) "School of cosmetology," "school of electrology," "school of nail technology," "school of barbering" means any place or part thereof where cosmetology, barbering, electrology, nail technology or any of the practices are taught, whether or not such place holds itself out as such.

~~(15)~~ (16) "State" means the State of Delaware.

~~(16)~~ (17) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to cosmetology, barbering, electrology, nail technology or aesthetics.

§ 5106. Powers and duties.

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

(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, ~~after time for appeal has lapsed;~~

(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) Establish by rule and regulation the curriculum to be completed by an instructor for any of the professions regulated by this chapter;~~

~~(14)~~ (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;

~~(15)~~ (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;

~~(16)~~ (15) Require continuing education of licensees as established by Board rules and regulations; and

~~(17)~~ (16) Prohibit the use of methyl methacrylate (MMA).

§ 5107. Qualifications of applicant; judicial review; report to Attorney General.

(a) All persons applying for a license to practice under this chapter:

c. Master barbers. -- The successful completion of a minimum of 1,500 classroom hours of continuous training for a complete course in barbering, passing of a barber's chemical examination and submission to the Board, pursuant to Board rules and regulations, of an additional 600 hour apprenticeship for chemicals under a master barber or cosmetologist. School owners shall have the option of the amount of hours of training per day not to exceed 10 hours and shall be able to choose which days of the week the student works provided the hours accumulated do not exceed 40 hours per week. The Board shall establish by regulation the portion of the 1,500 classroom hours that may be credited to an applicant who previously obtained classroom hours while studying to become an aesthetician, nail technician or electrologist. The Board shall establish by regulation the portion of the

3,000 apprenticeship hours that may be credited to an applicant who previously obtained apprenticeship hours while studying to become an aesthetician, nail technician or electrologist. Any barber who was issued a barber's license by the Division prior to April 28, 2008, shall be deemed a master barber; ~~–A barber may qualify for a master barber's license upon taking and passing a barber's chemical examination and upon submitting to the Board, pursuant to Board rules and regulations, documentation of successful completion of an additional 600 hour apprenticeship for chemicals under a master barber or cosmetologist;~~

d. Barbers. – The successful completion of a minimum of 1,500 classroom hours of continuous training for a complete course in barbering, or the ~~The~~ completion of 3,000 hours in an apprenticeship to a licensed barber with the total number of hours worked per day not to exceed 10 hours, nor to exceed 40 hours per week;

e. Nail technicians. -- The successful completion of a course of training in nail technology of not less than 300 hours in a school of nail technology or cosmetology; or successful completion of 600 hours as an apprentice under the supervision of a licensed nail technician. In either case, training is not to exceed 10 hours per day or 40 hours per week; ~~–A person applying for licensure by apprenticeship prior to June 26, 2010, shall complete 300 apprenticeship hours in not less than 6 weeks and not more than 24 months;~~

(8) Shall not have any disciplinary proceedings or unresolved complaints pending against that person in any jurisdiction where the applicant previously has been, or currently is, licensed to practice cosmetology, barbering, electrology or nail technology.

§ 5109. Reciprocity.

(a) Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to each applicant who shall present proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially similar to those of this State. An individual with a license from a state with less stringent requirements than those of this State may obtain a license through reciprocity if the individual can prove to the satisfaction of the Board that the individual has worked in another jurisdiction or jurisdictions in the field for which the individual is seeking a license in Delaware for a period of 5 years immediately preceding application in this State. All applicants shall submit evidence verified by oath that in all states in which the applicant is or was licensed, the applicant's license is in good standing as defined in § 5107(a)(4), (5), (6), ~~and (7) and (8)~~ of this title.

§ 5111. Issuance of license; renewal; ~~inactive status~~; reinstatement; lapsed license.

~~(e) As of June 26, 2011, the Board will not place a licensee on inactive status. Any inactive licensee has until June 26, 2011, to activate that inactive licensee's own license. Any inactive licensee who fails to have that inactive licensee's own license activated before the deadline will be required to reapply for licensure as a new applicant.~~

~~(d)~~ (c) A former licensee, who has been penalized for a violation of a provision of this chapter, or whose license has been suspended or revoked, and who subsequently is permitted to apply for reinstatement, shall apply for a new license, successfully complete all examinations, and pay all appropriate fees before the person may be licensed.

§ 5114. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that 1 of the conditions or violations set forth in § 5113 of this title applies to a practitioner regulated by this chapter:

(5) Revoke a practitioner's license;

(6) Permanently revoke a practitioner's license.

§ 5118. Licensure of cosmetology shops.

(b) An application for shop licensure shall identify the professional-in-charge and shall include notarized acknowledgement by the person identified as the professional-in-charge. At all times, the professional-in-charge shall be licensed pursuant to this chapter and shall hold a license in good standing as defined in §§ 5107(a)(4) – (8). A licensee may serve as professional-in-charge for only one shop at any given time. The Board shall be notified in writing of any change in the professional-in-charge within ten business days of such change.

~~(b)~~ (c) All cosmetology shops shall renew their licensure biennially, paying fees set by the Division of Profession Regulation. All cosmetology shops shall fully comply with all the rules and regulations promulgated by the Board as provided for in this chapter. ~~The Board of Cosmetology and Barbering, by regulation, shall establish the minimum equipment necessary for schools registered to instruct any of the occupations regulated by this chapter.~~ Nothing contained in this chapter shall prevent a person from operating a licensed cosmetology shop in the person's home, provided there is full compliance with all applicable health regulations and this chapter.

~~(e)~~ (d) No cosmetology shop shall accept an apprentice unless said salon or shop shall have on its staff at least 1 individual licensed in the profession for which instruction is being provided; further, that such salon or shop may register 1 additional apprentice for each additional licensed professional attached to its staff. In addition, such salon or shop shall possess the necessary apparatus and equipment for the proper instruction in all subjects for the practices for which a license is required under this chapter; and shall maintain a daily record of the attendance of such apprentice or apprentices, together with the number of hours of apprenticeship; and shall certify to the Board upon termination of such apprenticeship the credits earned. Such instruction shall consist of the necessary training for a complete course comprising all, or the majority, of the practices of cosmetology, barbering, nail technology and electrology as provided in this chapter; and such course shall include theoretical studies and practical demonstrations in sanitation, sterilization and other safety measures, and the use of antiseptics, cosmetics and electrical appliances, consistent with the practical and theoretical requirements as applicable to cosmetology, barbering, nail technology and electrology as provided for in this chapter.

~~(d)~~ (e) Any person, firm or corporation teaching any or all of the practices of cosmetology, including barbering, nail technology and electrology, shall be required to comply with all provisions applicable to establishments having apprentices; and any and all rules which may be promulgated by the Board established in accordance with this chapter. No school of cosmetology, barbering, nail technology or electrology or beauty salon, barbershop, nail salon or electrology establishment, shall operate within this State unless a proper license under this chapter has first been obtained. The practice of cosmetology and other professions regulated by this chapter shall not be taught or practiced in this State; except in a duly licensed establishment except as provided for elsewhere in this chapter.

~~(e)~~ (f) Nothing contained in this chapter shall affect the instructional program of cosmetology as conducted in the public schools of this State. Any student, who has successfully completed the prescribed course in cosmetology in a state public school, shall be eligible to take the examinations required by this chapter.

§ 5121. Requirements for apprenticeships.

~~(e) An apprentice shall work a minimum of 25 hours per week to acquire the minimum 3,000 hours of apprenticeship training. All apprentice training must be completed within 4 years of the first day of training.~~

~~(d)~~ (c) An apprentice must display that apprentice's own apprenticeship license at that apprentice's own work station, in a place readily visible to anyone receiving that apprentice's services.

~~(e)~~ (d) An apprentice may not be the employer of the supervising licensee.

§ 5127. Qualifications.

(a) No person shall be licensed under this subchapter unless the person has:

(2) Completed a course of study of not less than 600 hours in the principles pertaining to the practice of aesthetics; or completed 1200 hours in an apprenticeship to a licensed aesthetician, with the total number of hours worked per day not to exceed 10, nor to exceed 40 per week. An apprenticeship must be completed within 2 years; ~~A person applying for licensure by apprenticeship prior to June 26, 2010, shall complete 600 apprenticeship hours in not less than 15 weeks and not more than 36 months;~~

(6) Shall not have a criminal conviction record nor pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of aesthetics. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to actions as a licensed aesthetician. However, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the

Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following:

c. The applicant is capable of performing as a ~~certified~~ licensed aesthetician in a competent and professional manner.

(8) Shall not have any disciplinary proceedings or unresolved complaints pending against that person in any jurisdiction where the applicant previously has been, or currently is, licensed to practice aesthetics.

§ 5131. Reciprocity.

(a) Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to each applicant who shall present proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially similar to those of this State. An individual with a license from a state with less stringent requirements than those of this State may obtain a license through reciprocity if the individual can prove to the satisfaction of the Board that the individual has worked in another jurisdiction or jurisdictions in the field for which the individual is seeking a license in Delaware for a period of 5 years immediately preceding application in this State. All applicants shall submit evidence verified by oath that, all states in which the applicant is or was licensed, the applicant's license is in good standing as defined in § 5127(a)(5), (6), ~~and (7)~~ and (8) of this title.

§ 5132. Operation of aesthetics schools.

(a) Any school which holds a current license to conduct a school for the purpose of teaching cosmetology and/or its branches, may apply for approval by the Board to teach a course pertaining to the principles of aesthetics. Every school shall at all times be in the charge, and under the immediate supervision, of an aesthetics instructor.

§ 5133. Equipment.

Every school shall have, and shall maintain in good working condition, appropriate and sufficient equipment for its entire student body. ~~Minimum equipment for an aesthetic school shall be established by regulation by the Board of Cosmetology and Barbering.~~

§ 5134. Instructors.

~~(a) Every school shall at all times be in the charge, and under the immediate supervision, of an aesthetics instructor.~~

~~(b)~~ (a) Aesthetic instructors shall have successfully completed an education equivalent to a twelfth grade education. Proof of the required education shall be a certified high school transcript or any other document or affidavit which constitutes reliable proof of educational attainment as determined by the Board. In addition, the applicant shall be licensed pursuant to this chapter and shall have completed a teacher training course, consisting of a minimum of 500 hours of instruction in a registered school of aesthetics, or at least 2 years experience as an active licensed, practicing aesthetician, supplemented by at least 250 hours of instruction in a teacher training course. In addition, an aesthetics instructor shall have successfully passed an instructor examination designated by the Board in its rules and regulations. A licensed aesthetician who has been teaching aesthetics prior to enactment of this statute, and who provides the Board with proof, to the Board's satisfaction, of not less than 900 hours of teaching experience at a registered school of aesthetics, shall be exempted from this provision.

~~(c)~~ (b) As set forth in Board rules and regulations, foreign-trained applicants shall provide evidence satisfactory to the Board of training equivalent to that required in subsection ~~(b)~~ (a) of this section, in addition to meeting all other requirements of this subchapter.

Approved August 06, 2013