

CHAPTER 65
FORMERLY
HOUSE BILL NO. 121

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 51, Title 24 of the Delaware Code by striking said Chapter in its entirety and substituting in lieu thereof the following:

"CHAPTER 51. COSMETOLOGY AND BARBERING AND LICENSURE OF AESTHETICIANS

Subchapter I. Board of Cosmetology and Barbering

§ 5100. Objectives.

The primary objective of the Board of Cosmetology and Barbering, to which all other objectives and purposes are secondary, is to protect the general public (specifically those persons who are direct recipients of services regulated by these subchapters) from unsafe practices, and from occupational practices which tend to reduce competition or artificially fix the price of services rendered. The secondary objectives of the Board are to maintain minimum standards of practitioner competency, and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop standards assuring professional competency; shall monitor complaints brought against practitioners regulated by the Board; shall adjudicate at formal complaint hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against practitioners.

§ 5101. Definitions.

As used in this chapter:

(1) "Apprentice" means any person who is engaged in the learning of any or all the practices of cosmetology, barbering, nail technology or electrology from a practitioner licensed in the profession the apprentice is studying. The apprentice may perform or assist the licensed practitioner in any of the functions which the practitioner is licensed to perform.

(2) "Barber" means any person licensed under this chapter who, for a monetary consideration, shaves or trims beards, cuts or dresses hair, gives facial or scalp massages, or treats beards or scalps with preparations made for this purpose.

(3) "Board" means and refers to the Delaware State Board of Cosmetology and Barbering, as provided for in this chapter.

(4) "Classroom hour" is defined as 50 minutes of each 60-minute hour.

(5) "Cosmetologist" means any person licensed under this chapter who is not an apprentice or student practicing cosmetology, who shall have the qualifications provided for by this chapter.

(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 the 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.

(7) "Cosmetology shop" means any place or part thereof wherein cosmetology, barbering, electrology, nail technology, aesthetics, or any of their practices, are performed for compensation, whether or not the establishment holds itself out as a cosmetology shop.

(8) "Division" means the Delaware Division of Professional Regulation.

(9) "Electrologist" means any person licensed under this chapter who, for a monetary consideration, engages in the removal of superfluous hair by use of specially designed electric needles.

(10) "Instructor" means any person who teaches cosmetology, barbering, electrology or nail technology.

(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.

(12) "Nail technician" means any person licensed under this chapter who engages only in the practice of manicuring, pedicuring or sculpting nails, including acrylic nails, of any person.

(13) "Person" means a corporation, company, association or partnership, as well as an individual.

(14) "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) "State" means the State of Delaware.

(16) "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.

§ 5102. Authority to regulate.

The Board of Cosmetology and Barbering shall regulate persons performing any of the functions outlined in the duties of a cosmetologist, barber, electrologist, nail technician, aesthetician or instructor.

§ 5103. License requirement; applicability of chapter; exemptions.

(a) No person shall engage in the practice of cosmetology, barbering, electrology, or nail technology, or act as an instructor in said professions, or hold himself or herself out to the public as being qualified to practice the same; or use in connection with that person's name, or otherwise assume or use, any title or description conveying or tending to convey the impression that the person is qualified to practice cosmetology, barbering, electrology, or nail technology, or act as an instructor in said professions, unless such person has been duly licensed under this chapter.

(b) Whenever a license to practice as a cosmetologist, barber, electrologist, or nail technician, or act as an instructor in said professions, has expired or been suspended or revoked, it shall be unlawful for the person to practice cosmetology, barbering, electrology, nail technology, or act as an instructor in said professions.

(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 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.

(d) Shop license; necessity.

No person, firm, corporation, partnership or other legal entity shall operate, maintain or use premises for the offering of or rendering of any one or more of the services encompassed in the definition of cosmetology without first having secured a shop license from the board.

(e) Services rendered in unlicensed shop or school; prohibition; exceptions.

No person shall offer or render any of the services encompassed within the definition of cosmetology in a place which is not licensed as a shop or school, except that a practicing licensee, duly licensed pursuant to this act, may render the services which he or she is licensed to offer, as long as the practicing licensee is sponsored by a licensed shop and a record of those services is maintained by that shop, on the following individuals:

(1) Patients in hospitals, nursing homes, and other licensed health care facilities;

(2) A decedent in a funeral home;

(3) An invalid or handicapped person in the person's place of residence;

(4) Inmates or residents of institutions of the Department of Correction or the Department of Human Services;

(5) Performers or models, prior to, in anticipation of, or during a performance; or

(6) potential consumers of cosmetic preparations, lotions, creams, makeup or perfume which are intended for home use if the application of the product is made for the purposes of effecting a retail sale and the person neither accepts payment from the consumer for the service, nor makes the provision of the service contingent upon the purchase of any product or service.

§ 5104. Board of Cosmetology and Barbering; appointment; composition; qualifications; term of office; suspension or removal; compensation; continuation of former board.

(a) The Board of Cosmetology and Barbering shall consist of 13 members appointed by the Governor. With the expiration of the terms of the members in office as of the date of the enactment of this Statute, the Board composition shall be as follows: 2 cosmetologists, 2 nail technicians, 2 barbers, 2 aestheticians, 1 electrologist, 1 cosmetology instructor and 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.

(b) Each member shall serve for a term of 3 years, and may successively serve for 1 additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may successively serve for only 1 additional full term. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member.

(c) A person who has never served on the Board may be appointed to serve on the Board for 2 consecutive terms, but no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for 6 years within any 9-year period, shall again be appointed to the Board until an interim period of at least 1 term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) of this section shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c) of this section, unless such amendment or revision amends this section to permit such an appointment.

(e) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance or malfeasance. A member subject to disciplinary proceedings shall be disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded.

(f) Any member who fails to attend 3 consecutive regular business meetings, or who fails to attend at least half of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from office and a replacement shall be appointed by the Governor.

(g) No member of the Board of Cosmetology and Barbering, while serving on the Board, shall be a president, chairperson or other official of a professional cosmetology, barbering, nail technology, electrology or aesthetics association.

(h) The provisions set forth in Chapter 58 of Title 29 shall apply to all members of the Board.

(i) Board members shall receive not more than \$50 for each meeting attended, nor more than \$500 maximum per member in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

§ 5105. Officers; meetings; quorum.

(a) In the same month of each year the members shall elect, from among their number, a president, a vice-president and a secretary for 1 year. Each officer shall serve for 1 year, and may successively serve in the same office for 1 additional term. In the event that the president shall leave the Board, the vice-president shall become president and an election shall be held within 90 days of the president's departure.

(b) The Board shall hold a regularly scheduled business meeting at least once in each quarter of a calendar year, and at such other times as the president deems necessary or at the request of a majority of Board members.

(c) A majority of members shall constitute a quorum for the purpose of transacting business. No action shall be taken without the affirmative vote of a majority of the quorum. No disciplinary action shall be taken without the affirmative vote of at least 7 members.

(d) Minutes of all meetings shall be recorded, and copies of the minutes shall be maintained by the Division of Professional Regulation. At any hearing where evidence is presented, such hearing shall be recorded by a court reporter and any stenographic transcript requested shall be at the expense of the party making the request.

§ 5106. Powers and duties.

(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 of the Delaware Code. 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 of the Delaware Code;

(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 § 5116 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) 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) 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) Require continuing education of licensees as established by Board rules and regulations; and

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

(b) The Board of Cosmetology and Barbering shall promulgate regulations specifically identifying those crimes which are substantially related to the practice of cosmetology, barbering, electrology, nail technology or aesthetics.

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

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

(1) Shall have successfully completed an education equivalent to a 10th grade education. Instructors shall have successfully completed an education equivalent to completion of a 12th 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;

(2) Shall have passed a written and practical examination to the satisfaction of the Board as set forth in Board rules and regulations;

(3) Shall have paid the appropriate fee as established by the Division of Professional Regulation. In addition, except as otherwise provided for in this chapter, no individual shall be permitted to sit for an examination or shall be granted a license to practice in any of the professions regulated by this chapter, unless the individual meets the following education requirements, or has successfully completed an apprenticeship. The requirements are for:

a. Cosmetologists -- The successful completion of a minimum of 1,500 classroom hours of continuous training for a complete course in cosmetology. 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;

b. Apprentice cosmetologists -- The completion of 3,000 hours in an apprenticeship to a licensed cosmetologist with the total number of hours worked per day not to exceed 10 hours, nor to exceed 40 hours per week;

c. Master barbers -- The successful completion of a minimum of 1,500 classroom hours of continuous training for a complete course in barbering. 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 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 the effective date of this provision shall complete 300 apprenticeship hours in not less than 6 weeks and not more than 24 months;

f. Electrologists -- The successful completion of a course of training in electrology of not less than 300 hours in a school of electrology or cosmetology, or successful completion of 600 hours as an apprentice under the supervision of a licensed electrologist. In either case, training is not to exceed 10 hours per day or 40 hours per week;

g. Students -- Any school of cosmetology, barbering, electrology or nail technology which enrolls a student shall file with the Board the name and home address of such student on a quarterly basis, on a form approved by the Board. The Division of Professional Regulation shall keep a register of all enrolled students. Each student shall be at least 16 years of age at the time of enrollment;

h. Cosmetology and Barbering Instructors -- For cosmetology and barbering, an instructor must have a license in the respective field of cosmetology or barbering and the successful completion of a teacher training course, consisting of at least 500 hours of instruction in a registered school of cosmetology or barbering, or at least 2 years' experience as an active licensed, practicing cosmetologist or barber, supplemented by at least 250 hours of instruction in a teacher training course. In addition, the applicant shall have successfully passed an instructor examination designated by the Board in its rules and regulations. A person licensed as a cosmetology instructor may also become licensed as an electrology instructor, a nail technician instructor and/or an aesthetics

instructor. A person licensed as a cosmetology instructor may also become licensed as a barbering instructor if that person successfully completes a course in shaving which shall consist of at least 35 hours of instruction in shaving and is taught by a licensed barbering instructor. Finally, during the first five years after this statute is enacted, any barber providing proof that he or she has practiced as a licensed barber for fifteen (15) or more years may be licensed as a barbering instructor;

i. Electrology Instructor – an instructor must have a license in electrology and the successful completion of a teacher training course, consisting of at least 500 hours of instruction in a registered school of electrology or cosmetology; or at least 2 years' experience as an active licensed, practicing electrologist, supplemented by at least 250 hours' instruction in a teacher training course. In addition, the applicant shall have successfully passed an examination designated by the Board in its rules and regulations;

j. Nail Technician Instructor -- an instructor must have a license in nail technology and the successful completion of a teacher training course, consisting of at least 500 hours of instruction in a registered school of cosmetology or nail technology; or at least 2 years' experience as an active licensed, practicing nail technician, supplemented by at least 250 hours of instruction in a teacher training course. Proof of education or experience shall be provided to the satisfaction of the Board. In addition, the applicant shall have successfully passed an examination designated by the Board in its rules and regulations.

(4) Shall not have been the recipient of any administrative penalties regarding that person's licensed practice, including but not limited to fines, formal reprimands, license suspensions or revocation (except for license revocations for nonpayment of license renewal fees), probationary limitations, and/or have not entered into any agreements which contain conditions placed by a board on that person's professional conduct and practice, including any voluntary surrender of a license. The Board may, after a hearing, determine whether such administrative penalty is grounds to deny licensure;

(5) Shall not have any impairment related to drugs or alcohol that would limit the applicant's ability to undertake that applicant's licensed practice in a manner consistent with the safety of the public;

(6) Shall not have been convicted of a crime substantially related to the practice of cosmetology, barbering, electrology or nail technology, unless the applicant was previously so licensed or was enrolled in a training program to be so licensed while an offender under the supervision of the Department of Correction prior to July 10, 2001; however, after a hearing, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6) of this section, if it finds all of the following:

a. More than 5 years have elapsed since the applicant has fully discharged all imposed sentences. As used herein, the term "sentence" includes, but is not limited to, all periods of modification of a sentence, probation, parole or suspension. However, sentence does not include fines, restitution or community service, as long as the applicant is in substantial compliance with such fines, restitution and community service.

b. The applicant is capable of practicing cosmetology, barbering, electrology or nail technology in a competent and professional manner.

c. The granting of the waiver will not endanger the public health, safety or welfare.

(7) Shall not have a pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of cosmetology, barbering, electrology or nail technology. Applicants who have criminal conviction records or pending criminal charges shall require appropriate authorities to provide information about the record or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the applicant can carry out that applicant's own professional services with due regard for the health and safety of the recipients of those services and the public.

(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 (a)(3) of this section, in addition to meeting all other requirements of this section.

(c) When a person who feels the Board has refused or rejected an application without justification; has imposed higher or different conditions for the person than for other applicants or persons now licensed; or has in some other manner contributed to or caused the failure of such person's application, the applicant may appeal to Superior Court.

(d) Where the Board has found to its satisfaction that an application has been intentionally fraudulent, or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

§ 5108. Examinations.

(a) There shall be separate written and practical examinations for licensure for barbering, cosmetology, nail technology, electrology and aesthetics which shall be professionally developed and used on a national basis. Each of these examinations shall be offered at least semi-annually. If the required written or practical examination cannot be procured from a professional testing service, the Board may develop the written or practical examination subject to the approval of the Division of Professional Regulation.

(b) No Board member or designee of the Board may administer a practical examination to any student from an educational institution or commercial establishment where the Board member or designee of the Board is employed or has a fiduciary interest therein.

(c) Examination services shall be contracted and approved by the Division of Professional Regulation. Grading will be performed by the contracted testing service where professionally developed examinations are used. All scoring for practical examinations shall be approved by the Division of Professional Regulation.

(d) The Board, in its rules and regulations, shall determine the number of times that an applicant may re-take the examination.

§ 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(s) 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 the applicant's license is in good standing as defined in § 5107(a)(4), (5), (6) and (7) of this title.

(b) An applicant who took the applicable written examination in a language other than the English language shall demonstrate the ability to communicate in the English language as determined by Board rules and regulations.

§ 5110. Fees.

The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board. There shall be a separate fee charged for each service or activity; but no fee shall be charged for an activity not specified in this chapter. The application fee shall not be combined with any other fee or charge. At the beginning of each licensure biennium, the Division, or any other state agency acting on its behalf, shall compute, for each separate service or activity, the appropriate Board fees for the licensure biennium.

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

(a) Each person who has passed the examinations required by this chapter, who has been admitted to practice in this State by reciprocity, or who has otherwise qualified for a license shall, prior to receiving such license, file for and obtain an

occupational license from the Division of Revenue, if required, in accordance with Chapter 23 of Title 30. The Board shall issue a license to each person who has qualified for same under this chapter. A duplicate license shall be issued to a practitioner licensed under this chapter upon payment of a fee established by the Division of Professional Regulation. The license shall be clearly marked "DUPLICATE."

(b) Each license shall be renewed biennially, in such manner as is determined by the Division, and upon payment of the appropriate fee, submission of a renewal form provided by the Division, and proof that the licensee has met any continuing education requirements established by the Board. A licensee who has allowed that licensee's license to lapse for less than 1 year may renew that licensee's lapsed license upon submission of a renewal form provided by the Division, payment of a late fee established by the Division, and proof that the licensee has met any continuing education requirements established by the Board. A licensee who has allowed that licensee's license to lapse for longer than 1 year but less than 4 years may reinstate that licensee's lapsed license upon submission of a renewal form provided by the Division, payment of an additional late fee established by the Division, and proof that the licensee has met any continuing education requirements established by the Board. A licensee who has allowed that licensee's license to lapse for longer than 4 years shall complete one of the following in order to reinstate his or her license:

(1) Retake the practical examination for the profession for which the applicant is applying; or

(2) For cosmetology and barbering, completion of a 1,000-hour apprenticeship; for electrology, completion of a 200-hour apprenticeship; for nail technology, completion of an 85-hour apprenticeship; for aesthetics, completion of a 200-hour apprenticeship. All hours of apprenticeship completed under this section shall be with an individual licensed under this chapter to perform the activities of the profession for which the applicant is applying; or

(3) For cosmetology and barbering, completion of a course of instruction not less than 500 classroom hours; for electrology, completion of a course of instruction not less than 100 hours; for nail technology, completion of a course of instruction not less than 45 hours; for aesthetics, completion of a course of instruction not less than 100 hours. All courses completed under this section shall be at a school of instruction registered in the profession for which the applicant is applying; or

(4) For a licensee who can present proof of current licensure in good standing in another state, the District of Columbia, or territory of the United States, the license may be reinstated, at the discretion of the Board, upon submission of proof of continuous employment in the applicable profession for at least one year immediately preceding the date of the request for reinstatement.

(5) For shops and schools, the two year period above does not apply. A shop or school that allows its license to lapse has 45 days from the expiration date to apply for reinstatement. After that time, any shop or school must reapply.

(c) As of one year after the effective date of this Statute, the Board will not place a licensee on inactive status. Any inactive licensee has one year from the date that this statute is enacted to activate his or her license. Any inactive licensee who fails to have his or her license activated before the deadline will be required to reapply for licensure as a new applicant.

(d) 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.

§ 5112. Complaints.

(a) All complaints shall be received and investigated by the Division in accordance with § 8735 of Title 29, and the Division shall be responsible for issuing a final written report at the conclusion of its investigation. Investigators of the Division may enter any nail salon, beauty salon, barbershop or aesthetics shop in furtherance of their investigation. Upon a determination that an individual is practicing cosmetology, barbering, electrology, nail technology or aesthetics without a license, the investigator shall request that a Justice of the Peace Court issue a summons for a violation of § 5117(b) or (c) of this title, as applicable. The investigator or the Attorney General or their designee, or any other person authorized by law, shall prosecute the matter. A copy of the investigator's report, including the summons and complaint, shall be sent to the Board. A condition of bond

shall be that the accused shall not practice the regulated conduct without first obtaining a license from the Division, and any violations of bond shall be treated as criminal contempt, pursuant to § 1271(3) of Title 11.

(b) Those complaints involving unsanitary conditions or other conditions in any nail salon, cosmetology or beauty salon, barber shop, electrology salon or aesthetics shop which may harm the health of those receiving the services outlined in this chapter shall be investigated by the Division of Public Health.

§ 5113. Grounds for discipline; procedure.

(a) Practitioners regulated under this chapter shall be subject to those disciplinary actions set forth in § 5114 of this title if, after a hearing, the Board finds that the practitioner has:

(1) Employed or knowingly cooperated in fraud or material deception in order to acquire or renew a license to practice cosmetology, barbering, electrology, nail technology or aesthetics; or impersonated another person holding a license, or has allowed another person to use that licensee's license;

(2) Been incompetent or negligent in the practice of cosmetology, barbering, electrology, nail technology or aesthetics;

(3) Excessively used or abused drugs either in the past 2 years or currently; excessive use or abuse of drugs shall mean any use of narcotics, controlled substances or illegal drugs without a prescription from a licensed physician, or the abuse of alcoholic beverage such that it impairs the practitioner's ability to perform the work of a cosmetologist, barber, electrologist, nail technician or aesthetician;

(4) Been convicted of a crime that is substantially related to the practice of cosmetology, barbering, electrology, nail technology or aesthetics;

(5) As a cosmetologist, barber, electrologist, nail technician or aesthetician, or otherwise in the practice of the profession, knowingly engaged in an act of consumer fraud or deception, engaged in the restraint of competition, or participated in price-fixing activities;

(6) Violated a lawful provision of this chapter, or any lawful regulation established thereunder;

(7) Knowingly employed or cooperated in the hiring or contracting for the services of, or, as the owner or operator of a beauty salon or aesthetics shop, leased space or otherwise entered into a contractual relationship with, any unlicensed person(s) required by this chapter to hold an unrestricted license to practice any of the professions regulated by this chapter;

(8) Violated a standard or regulation adopted by the Department of Health and Social Services for public health assurance in the practice of cosmetology and barbering or in the operation of beauty salons, aesthetics shops and schools of cosmetology, electrology, nail technology, barbering and aesthetics;

(9) Had his or her license as a cosmetologist, barber, electrologist, nail technician or aesthetician suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and provided that the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute 1 or more of the acts defined in this chapter. Each person licensed as a cosmetologist, barber, electrologist, nail technician or aesthetician in this State shall be deemed to have given consent to release of this information by the board of cosmetology and barbering, or other comparable agencies, in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses;

(10) Failed to notify the Board that the person's license as a cosmetologist, barber, electrologist, nail technician or aesthetician in another state has been subject to discipline, or has been surrendered, suspended or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.

(b) Subject to subchapter IV of Chapter 101 of Title 29, no license shall be restricted, suspended or revoked by the Board, and no practitioner's rights to practice shall be limited by the Board, until such practitioner has been given notice, and an opportunity to be heard in accordance with the Administrative Procedures Act [Chapter 101 of Title 29].

§ 5114. Disciplinary sanctions.

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

- (1) Issue a letter of reprimand;
- (2) Impose a civil penalty not to exceed \$500 for each violation of this Chapter;
- (3) Place a practitioner on probationary status, and require the practitioner to:
 - a. Report regularly to the Board upon the matters which are the basis of the probation;
 - b. Limit all practice and professional activities to those areas prescribed by the Board;
- (4) Suspend any practitioner's license;
- (5) Revoke a practitioner's license.

(b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies which required such action have been remedied.

(c) As a condition of reinstatement of a suspended license, or removal from probationary status, the Board may impose such disciplinary or corrective measures as are authorized under this chapter.

§ 5115 Temporary suspension; pending hearing.

(a) In the event the Board receives a written complaint concerning a licensee's activities which the Board determines alleges matters presenting an immediate or imminent danger to the public health, welfare and safety requiring emergency action, the Board may issue an order temporarily suspending the licensee's license, pending a final hearing on the complaint. No order temporarily suspending a license shall be issued by the Board, with less than 24 hours prior written or oral notice to the licensee so that the licensee may be heard in opposition to the proposed suspension and unless at least a quorum of the Board votes in favor of a temporary suspension. An order of temporary suspension under this section shall remain in effect for a period not longer than 60 days from the date of the issuance of said order, unless the suspended licensee requests a continuance of the date for the final hearing before the Board. If a continuance is requested, the order of temporary suspension shall remain in effect until the Board has rendered a decision after the final hearing.

(b) The licensee, whose license has been temporarily suspended shall be notified forthwith in writing. Notification shall consist of a copy of the complaint and the order of temporary suspension pending a hearing and shall be personally served upon the licensee or sent by certified mail, return receipt requested, to the licensee's last known address.

(c) A licensee whose license has been temporarily suspended pursuant to this section may request an expedited hearing. The Board shall schedule the hearing on an expedited basis provided that the Board receives the licensee's request for an expedited hearing within 5 calendar days from the date on which the licensee received notification of the Board's decision to temporarily suspend the licensee's license.

(d) As soon as possible, but in no event later than 60 days after the issuance of the order of temporary suspension, the Board shall convene for a hearing on the complaint. In the event that a licensee, in a timely manner, requests an expedited hearing, the Board shall convene within 15 days of the receipt by the Board of such a request and shall render a decision within 30 days.

(e) In no event shall an order of temporary suspension remain in effect for longer than 60 days unless the suspended licensee requests an extension of the order of temporary suspension pending a final decision of the Board. Upon a final decision of the Board, the order of temporary suspension shall be vacated in favor of the disciplinary action ordered by the Board.

§ 5116. Hearing procedures.

(a) If a complaint is filed with the Board pursuant to § 8735 of Title 29, alleging a violation of § 5113 of this title, the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing shall be conducted in accordance with Chapter 101 of Title 29.

(b) All hearings shall be informal without use of rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this chapter as it deems necessary. The

Board's decision shall be in writing and shall include its reasons for such decision. A copy of the decision shall be mailed immediately to the practitioner.

(c) Where the practitioner is in disagreement with the action of the Board, the practitioner may appeal the Board's decision to the Superior Court within 30 days of the day the notice of decision was mailed. Upon such appeal the Court shall hear the evidence on the record. Board action shall not be stayed upon appeal unless so ordered by the Superior Court.

§ 5117. Practicing without a license; penalties.

(a) Where the Board has placed a practitioner on probationary status under certain restrictions or conditions, and the Board has determined that such restrictions or conditions are being or have been violated by the practitioner, it may, after a hearing on the matter, suspend or revoke the practitioner's license.

(b) Where a person not currently licensed as a cosmetologist, barber, electrologist, nail technician, aesthetician or instructor, in any of the professions for which a license is required, is convicted of unlawfully practicing cosmetology, barbering, electrology, nail technology or aesthetics in violation of this chapter, such offender shall, upon the first offense, be fined not less than \$100 nor more than \$500, and shall pay all costs; provided, however, that where it is alleged that such violation has resulted in injury to any person, the offender shall be charged and tried under the applicable provision(s) of Title 11.

(c) Where a person previously convicted of unlawfully practicing cosmetology, barbering, electrology, nail technology, or aesthetics or instructing in any of the professions for which a license is required under this chapter, is convicted a second or subsequent time of such offense, the fine assessed against such person shall be not less than \$500 nor more than \$1,000 for each subsequent offense thereafter.

(d) Where a person in violation of this Section unlawfully practiced cosmetology, barbering, electrology, nail technology or aesthetics or instruction of these professions, the shop or school owner and/or manager shall, upon the first offense, be fined not less than \$500 nor more than \$1000, and shall pay all costs. Upon the second offense and each offense thereafter, the shop or school owner and/or manager shall be fined not less than \$1000 nor more than \$1500.

§ 5118. Licensure of cosmetology shops.

(a) All cosmetology shops must be licensed pursuant to this chapter. Applications for licensure shall be submitted on a form prescribed by the Board, together with the required fees set biennially by the Division of Professional Regulation.

(b) 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.

(c) 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) 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) 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.

§ 5119. Licensing and requirements of a school.

(a) Each school of barbering, cosmetology, electrology or nail technology shall be licensed pursuant to this chapter and shall comply with the requirements of the Delaware Department of Education. Each school shall employ at least 1 instructor for the first 25 students enrolled, and 1 additional instructor for each additional 25 students enrolled. Each school shall possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum; shall keep a daily record of the attendance of each student; maintain regular class and instruction hours; establish grades and hold examinations before issuance of diplomas. Each school shall require training for a complete course comprising all, or the majority, of the practices regulated under this chapter, as provided in this chapter, together with the minimum number of hours therein prescribed, and shall include practical demonstrations and theoretical studies, and study in sanitation, sterilization, other safety measures, and the use of antiseptics, cosmetics and electrical appliances, consistent with the practical and theoretical requirements as applicable to any practice for which a license is required under this chapter, as provided in this chapter.

(b) An instructor shall decide when a student of any of the practices for which a license or certification is required under this chapter, is sufficiently competent to perform those services for the public.

(c) Each school for a profession regulated by this chapter shall display, in a conspicuous place within the clinic area of the school, a sign which shall read as follows:

"ALL SERVICES IN THIS SCHOOL PERFORMED BY STUDENTS WHO ARE IN TRAINING."

(d) Each school licensed under this chapter shall afford to its students the full course of instruction required under this chapter, in default of which a proportionate amount of the tuition paid by the student shall be refunded.

(e) Each school licensed under this chapter, but not yet accredited pursuant to § 5119(h), shall maintain the following records for each student: (1) daily attendance records; (2) scholastic records; and (3) financial records. A school shall submit to the Board a notarized quarterly report on a form approved by the Board. The report shall be submitted by the following dates: April 15, July 15, October 15 and January 15 - and shall include the names and license numbers of the teachers employed and be personally signed by the owner and supervisor of the school. The school may charge the student a fee that covers the reasonable cost of making copies of the records. A school shall retain records of student attendance and scholastic records for a minimum of five (5) years. A school that discontinues operation shall comply with Delaware Department of Education requirements with respect to the disposition of student records.

(f) A school that enrolls a transfer student from another cosmetology school shall obtain for that student: (1) a notarized transcript from the original school listing the hours earned by the student in the required curriculum areas; and (2) verification from the appropriate licensing authority that the original school is licensed in that state, in the case of a student transferring from an out-of-state school to a school in Delaware.

(g) Failure to comply with any of the requirements applicable to a school constitutes grounds for immediate revocation of the school's license.

(h) Within one (1) year after being licensed by the Board, a school shall submit to the Board proof that it has applied for accreditation with a nationally recognized accrediting agency approved by the Board. Within three (3) years after being licensed by the Board, a school shall submit to the Board proof that it is accredited by a nationally recognized accrediting agency. A school that has been continually licensed and in good standing for more than five (5) years prior to the enactment of this statute is

exempted from this requirement. A school that has been continually licensed in good standing by the Board for less than five years prior to the date this statute is enacted shall submit proof of accreditation by a nationally recognized accrediting agency before five (5) years after the date this statute is enacted.

§ 5120. Display of license.

All licenses issued under this chapter shall be prominently displayed conspicuously in the place of business of the licensee. In addition, each main or branch place of business shall have prominently displayed the address and telephone number of the Division of Professional Regulation, which individuals may contact concerning the services of licensees.

§ 5121. Requirements for apprenticeships.

(a) An individual who chooses to seek eligibility for the cosmetologist, barbering, electrology or nail technician examination by apprenticeship shall apply to the Board for an apprentice permit.

(b) The owner of a shop that employs apprentices shall submit to the Board, on a form provided by the Board, a quarterly report of the hours earned by each apprentice. The reports shall be submitted by the following dates: April 15, July 15, October 15, and January 15.

(c) 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 four years of the first day of training.

(d) An apprentice must display his or her apprenticeship license at his or her work station, in a place readily visible to anyone receiving his or her services.

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

§ 5122. Inspections.

(a) An agent of the Division may enter and inspect during business hours, without prior notice, 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.

(b) An agent of the Division acting pursuant to subsection (a) of this section: may inspect and copy records required to be kept by this chapter; may inspect within reasonable limits and in a reasonable manner the premises and all pertinent equipment; and may inspect other things therein, including records, files, papers and facilities relating to violation of this chapter.

(c) All information gathered under this section shall be kept confidential in accordance with all federal and state laws regarding privacy.

Subchapter II. Aesthetician License

§ 5123. Objectives.

The primary purpose for the licensing of aestheticians is to guarantee to the public that each licensed practitioner has achieved a minimum level of competence as an aesthetician.

§ 5124. Definitions.

For the purpose of this subchapter:

(1) "Apprentice in aesthetics" means any person who is engaged in the learning of any or all the practices of aesthetics from a practitioner licensed in the profession the apprentice is studying. The apprentice may perform or assist the licensed practitioner in any of the functions which the practitioner is certified to perform.

(2) "Board" means the Board of Cosmetology and Barbering.

(3) "Aesthetician" is a person who practices the cleansing, stimulating, manipulating and beautifying of skin, with hands or mechanical or electrical apparatus or appliances, removes superfluous hair and gives treatments to keep skin healthy and attractive. An aesthetician is not authorized to prescribe medication or provide medical treatments in the same manner as a dermatologist.

(4) "School of aesthetics" shall mean any place or part thereof where aesthetics or any of the practices are taught, whether or not such place holds itself out as such.

(5) "Aesthetics shop" means any place or part thereof wherein aesthetics are performed for compensation, whether or not the establishment holds itself out as an aesthetic shop. This definition shall not apply to places where aesthetics are performed by licensed health care professionals acting within the scope of their licensed profession.

§ 5125. License requirement; applicability of chapter.

(a) No person shall engage in the practice of aesthetics, act as an instructor of aesthetics, or hold himself or herself out to the public as being qualified to practice aesthetics; or use in connection with the person's name, or otherwise assume or use, any title or description conveying or tending to convey the impression that the person is qualified to practice aesthetics, or act as an instructor of aesthetics, unless such person has been duly licensed under this chapter.

(b) Whenever a license to practice as an aesthetician or act as an instructor of aesthetics has expired or been suspended or revoked, it shall be unlawful for the person to practice aesthetics or act as an instructor of aesthetics.

(c) A person may not seek a license or renewal of license by means of false or fraudulent actions or misrepresentations.

(d) No person, firm, corporation, partnership or other legal entity shall operate, maintain or use premises for the offering or rendering of any one or more of the services encompassed in the definition of aesthetics without first having secured a shop license from the Board. Applications for licensure shall be submitted on a form prescribed by the Board, together with the required fees set biennially by the Division of Professional Regulation. All aesthetics shops shall renew their licensure biennially, paying fees set by the Division of Professional Regulation. All aesthetics shops shall fully comply with all the rules and regulations promulgated by the Board as provided for in this chapter.

§ 5126. Exemptions.

Nothing in this subchapter shall prohibit:

(1) A licensed cosmetologist from performing services as an aesthetician;

(2) Persons authorized by the laws of this State to practice medicine and surgery, dentistry, chiropractic or similar professions, including registered nurses, licensed practical nurses, nurses' aides, physical therapists and physical therapy assistants from acting within the scope of their profession or occupation.

§ 5127. Qualifications.

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

(1) Successfully completed an education equivalent to a 10th 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;

(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 two (2) years. A person applying for licensure by apprenticeship prior to the effective date of this provision shall complete 600 apprenticeship hours in not less than 15 weeks and not more than 36 months.

(3) Passed the national examination required in § 5128 of this title.

(4) Paid the appropriate fee as established by the Division of Professional Regulation.

(5) Shall not have any impairment related to drugs or alcohol that would limit the applicant's ability to undertake that applicant's licensed practice in a manner consistent with the safety of the public.

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

a. More than 5 years have elapsed since the applicant has fully discharged all imposed sentences. As used herein, the term "sentence" includes, but is not limited to, all periods of modification of a sentence, probation, parole or suspension. However, sentence does not include fines, restitution or community service, as long as the applicant is in substantial compliance with such fines, restitution and community service.

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

c. The granting of the waiver will not endanger the public health, safety or welfare.

(7) Shall not have been the recipient of any administrative penalties regarding that person's licensed practice, including but not limited to fines, formal reprimands, license suspensions or revocation (except for license revocations for nonpayment of license renewal fees), probationary limitations, and/or have not entered into any "agreements" which contain conditions placed by a Board on that person's professional conduct and practice, including any voluntary surrender of a license. The Board may, after a hearing, determine whether such administrative penalty is grounds to deny licensure.

(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 (a)(2) of this section, in addition to meeting all other requirements of this section.

(c) When a person who feels the Board has refused or rejected an application without justification; has imposed higher or different conditions for the person than for other applicants or persons now licensed; or has in some other manner contributed to or caused the failure of such person's application, the applicant may appeal to the Superior Court.

(d) Where the Board has found to its satisfaction that an application has been intentionally fraudulent, or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

§ 5128. Examinations.

(a) Examinations for licensure as an aesthetician shall be professionally developed and used on a national basis.

(b) Examination services shall be contracted and approved by the Division of Professional Regulation.

(c) The Division of Professional Regulation or its designee shall administer the examination for licensure. Grading will be performed by the contracted testing service.

§ 5129. Display of certificate.

Each individual licensed under this subchapter shall prominently display the license issued by the Board in a conspicuous part of the office wherein the practice of aesthetics is conducted. In addition, each main or branch office shall have prominently displayed a name and telephone number, of the Division of Professional Regulation, which individuals may contact concerning the services of the licensed aesthetician.

§ 5130. Fees.

The amount to be charged for each fee imposed under this subchapter shall approximate and reasonably reflect all costs necessary to defray the proportional expenses incurred by the Division in its services pursuant to this subchapter. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in this subchapter. The application fee shall not be combined with any other fee or charge. At the beginning of each licensure biennium, the Division, or any other state agency acting on its behalf, shall compute, for each separate service or activity, the appropriate fees for the coming licensure biennium.

§ 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(s) 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 the applicant's license is in good standing as defined in § 5127(a)(5), (6), and (7) of this title.

(b) An applicant who took the applicable written examination in a language other than the English language shall demonstrate the ability to communicate in the English language as determined by Board rules and regulations.

§ 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.

(b) All other schools shall be separately licensed and pay the prescribed fee.

(c) All aesthetics schools shall comply with the requirements of the Delaware Department of Education.

(d) All aesthetic schools must maintain compliance with § 5119 of this chapter, pertaining to cosmetology and barbering schools. All aesthetic schools must become accredited within five years of the enactment of this Section, as provided in § 5119(h).

§ 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) Aesthetic instructors shall have successfully completed an education equivalent to a 12th 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) 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) of this section, in addition to meeting all other requirements of this subchapter.

§ 5135. Course of study.

Each school of aesthetics shall maintain a course of study of not less than 600 hours, extending over a period of a maximum of 160 hours a month. Every school shall maintain regular class hours with a daily schedule.”.

Section 2. This bill shall take effect one year after its enactment into law.

Approved June 26, 2009