

2019 -- H 5680

LC001859

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS-BARBERS, HAIRDRESSERS,
COSMETICIANS, MANICURISTS AND ESTHETICIANS

Introduced By: Representatives Shanley, Lyle, and Mendez

Date Introduced: February 27, 2019

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 5-10 of the General Laws entitled "Barbers, Hairdressers,
2 Cosmeticians, Manicurists and Estheticians" is hereby repealed in its entirety.

3 ~~CHAPTER 5-10~~

4 ~~Barbers, Hairdressers, Cosmeticians, Manicurists and Estheticians~~

5 ~~**5-10-1. Definitions.**~~

6 ~~The following words and phrases, when used in this chapter, are construed as follows:~~

7 ~~(1) "Apprentice barber" means an employee whose principal occupation is service with a~~
8 ~~barber who has held a current license as a barber for at least three (3) years with a view to~~
9 ~~learning the art of barbering, as defined in subdivision (15) of this section.~~

10 ~~(2) "Barber" means any person who shaves or trims the beard; waves, dresses, sings,~~
11 ~~shampoos, or dyes the hair; or applies hair tonics, cosmetic preparations, antiseptics, powders, oil~~
12 ~~clays, or lotions to scalp, face, or neck of any person; or cuts the hair of any person; gives facial~~
13 ~~and scalp massages; or treatments with oils, creams, lotions, or other preparations.~~

14 ~~(3) "Board" means the state board of barbering and hairdressing as provided for in this~~
15 ~~chapter.~~

16 ~~(4) "Department" means the Rhode Island department of health.~~

17 ~~(5) "Division" means the division of professional regulation within the department of~~
18 ~~health.~~

1 ~~(6) "Esthetician" means a person who engages in the practice of esthetics, and is licensed~~
2 ~~as an esthetician.~~

3 ~~(7) "Esthetician shop" means a shop licensed under this chapter to do esthetics of any~~
4 ~~person.~~

5 ~~(8) "Esthetics" means the practice of cleansing, stimulating, manipulating, and~~
6 ~~beautifying skin, including, but not limited to, the treatment of such skin problems as~~
7 ~~dehydration, temporary capillary dilation, excessive oiliness, and clogged pores.~~

8 ~~(9) "Hair design shop" means a shop licensed under this chapter to do barbering or~~
9 ~~hairdressing/cosmetology, or both, to any person.~~

10 ~~(10) "Hairdresser and cosmetician" means any person who arranges, dresses, curls, cuts,~~
11 ~~waves, singes, bleaches, or colors the hair or treats the scalp, or manicures the nails of any person,~~
12 ~~either with or without compensation, or who, by the use of the hands or appliances, or of cosmetic~~
13 ~~preparations, antiseptics, tonics, lotions, creams, powders, oils or clays, engages, with or without~~
14 ~~compensation, in massaging, cleansing, stimulating, manipulating, exercising, or beautifying, or~~
15 ~~in doing similar work upon the neck, face, or arms, or who removes superfluous hair from the~~
16 ~~body of any person.~~

17 ~~(11) "Instructor" means any person licensed as an instructor under the provisions of this~~
18 ~~chapter.~~

19 ~~(12) "Manicuring shop" means a shop licensed under this chapter to do manicuring only~~
20 ~~on the nails of any person.~~

21 ~~(13) "Manicurist" means any person who engages in manicuring for compensation and is~~
22 ~~duly licensed as a manicurist.~~

23 ~~(14) "School" means a school approved under chapter 40 of title 16, as amended, devoted~~
24 ~~to the instruction in, and study of, the theory and practice of barbering, hairdressing, and cosmetic~~
25 ~~therapy, esthetics, and/or manicuring.~~

26 ~~(15) "The practice of barbering" means the engaging by any licensed barber in all, or any~~
27 ~~combination of, the following practices: shaving or trimming the beard or cutting the hair; giving~~
28 ~~facial and scalp massages or treatments with oils, creams, lotions, or other preparations, either by~~
29 ~~hand or mechanical appliances; singeing, shampooing, arranging, dressing, curling, waving,~~
30 ~~chemical waving, hair relaxing, or dyeing the hair or applying hair tonics; or applying cosmetic~~
31 ~~preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.~~

32 ~~(16) "The practice of hairdressing and cosmetic therapy" means the engaging by any~~
33 ~~licensed hairdresser and cosmetician in any one or more of the following practices: the~~
34 ~~application of the hands or of mechanical or electrical apparatus, with or without cosmetic~~

1 ~~preparations, tonics, lotions, creams, antiseptics, or clays, to massage, cleanse, stimulate,~~
2 ~~manipulate, exercise, or otherwise to improve or to beautify the scalp, face, neck, shoulders,~~
3 ~~arms, bust, or upper part of the body; or the manicuring of the nails of any person; or the~~
4 ~~removing of superfluous hair from the body of any person; or the arranging, dressing, curling,~~
5 ~~waving, weaving, cleansing, cutting, singeing, bleaching, coloring, or similarly treating the hair~~
6 ~~of any person.~~

7 ~~(17) "The practice of manicuring" means the cutting, trimming, polishing, tinting,~~
8 ~~coloring, or cleansing the nails of any person.~~

9 **5-10-2. Creation of division of professional regulation and board of barbering and**
10 **hairdressing -- Powers and duties.**

11 ~~(a) Within the department of health there is a division of professional regulation and a~~
12 ~~board of barbering and hairdressing. The division shall:~~

13 ~~(1) Approve all written and practical examinations;~~

14 ~~(2) Issue all licenses and permits subsequently provided for in this chapter;~~

15 ~~(3) Serve as the sole inspector of sanitation of all establishments licensed under this~~
16 ~~chapter;~~

17 ~~(4) Make any rules and regulations that the division deems necessary or expedient, in~~
18 ~~conformity with the provisions of this chapter and not contrary to law, for the conduct of the~~
19 ~~business of barbering and hairdressing and cosmetic therapy or esthetics and manicuring, for the~~
20 ~~use of appliances, apparatus, and electrical equipment and machines and the establishment of~~
21 ~~sanitary requirements in all establishments and of all persons licensed under the provisions of this~~
22 ~~chapter;~~

23 ~~(5) Keep a register of all persons and places of business licensed under this chapter;~~

24 ~~(6) Keep complete records of all persons and establishments licensed under this chapter;~~

25 ~~(7) Summon witnesses and administer oaths; and~~

26 ~~(8) Do all things and perform all acts necessary to enforce the provisions of this chapter.~~

27 ~~(b) The board of barbering and hairdressing shall have a policy making role in selection~~
28 ~~of the examinations. Subsequent to the administration of the examination, the board of examiners~~
29 ~~shall review the examinations to evaluate their effectiveness. The board shall supervise the~~
30 ~~operations of the division of professional regulation in an advisory capacity in promulgating any~~
31 ~~policy that is necessary to improve the operations of the division in their areas of expertise. The~~
32 ~~promulgation of that policy is subject to the approval of the director of the department. Members~~
33 ~~of the board are subject to the provisions of chapter 14 of title 36.~~

34 **5-10-3. Board of barbering and hairdressing -- Appointments -- Organization --**

1 **Removal of members.**

2 (a) ~~The governor shall appoint seven (7) members to a board of hairdressing who shall be~~
3 ~~appointed for a term of four (4) years and until their successors are appointed and qualified. The~~
4 ~~governor shall appoint one public member, three (3) licensed cosmetologists, and three (3)~~
5 ~~licensed barbers. However, for the initial board appointments the three hairdressing members of~~
6 ~~the current board of hairdressing and the three (3) barber members of the current board of~~
7 ~~barbering shall be automatically appointed to the board of barbering and hairdressing to fulfill~~
8 ~~their unexpired terms. To be eligible for appointment to the board, the appointee shall have been a~~
9 ~~licensed barber or hairdresser and cosmetician, continuously and actively engaged in that practice~~
10 ~~for at least five (5) years immediately preceding his or her appointment, and not be connected,~~
11 ~~either directly or indirectly, with any school of barbering, hairdressing, and cosmetic therapy as~~
12 ~~defined in § 5-10-1(14), or any establishment dealing in barbering, cosmetic, or hairdressing~~
13 ~~supplies.~~

14 (b) ~~Any member of the board appointed by the governor may be removed by the~~
15 ~~governor for cause and any vacancy occurring in the membership of the board by that removal~~
16 ~~shall be filled by the governor by the appointment of a qualified person to serve for the unexpired~~
17 ~~term.~~

18 (c) ~~The division shall keep a record of all proceedings of the board, issue all notices,~~
19 ~~attest all records, and perform any other duties that are required by the board.~~

20 (d) ~~The department is authorized to employ a chief field inspector appointed by the~~
21 ~~governor and to assist the division in the proper administration of this chapter.~~

22 **5-10-4. Board of barbering and hairdressing -- Compensation of members.**

23 ~~No member of the board shall be compensated for his or her services for attendance at~~
24 ~~meetings of the board, attendance at examinations, but shall be reimbursed by the department of~~
25 ~~health for his or her traveling and other expenses incurred in the performance of his or her duties~~
26 ~~provided in this chapter.~~

27 **5-10-5. Repealed.**

28 **5-10-6. Meetings of board -- Time and notice of examinations.**

29 ~~The board shall meet as often as necessary for the transaction of any business that~~
30 ~~regularly comes before it. The board shall hold each year, at any times and places within the state~~
31 ~~that it designates, at least two (2) public examinations for the various classes of licenses that it is~~
32 ~~empowered to issue. Practical examinations shall be held for those licenses.~~

33 **5-10-7. License required for practice.**

34 ~~No person shall practice barbering, hairdressing, and cosmetic therapy, esthetics, or~~

1 ~~manicuring in this state unless the person has first obtained a license for that particular practice;~~
2 ~~provided, that nothing in this chapter prohibits students enrolled in programs of hairdressing,~~
3 ~~barbering, and/or cosmetology from entering into work study arrangements after they have~~
4 ~~completed the requisite hours of classroom instruction for that particular practice. Students~~
5 ~~participating in those work study arrangements shall be under the direct supervision of a licensed~~
6 ~~hairdresser, barber, or cosmetologist, and shall be clearly identified as students. No course credit~~
7 ~~shall be granted for this students' participation in a work study arrangement and in no event shall~~
8 ~~it continue beyond the students' graduation from school or completion of course work.~~

9 **5-10-8. Issuance of licenses -- Qualifications of applicants.**

10 ~~(a) The division shall issue licenses to persons engaged in, or desiring to engage in, the~~
11 ~~practice of barbering, hairdressing and cosmetic therapy and/or manicuring or esthetics and for~~
12 ~~instructing in any approved school of barbering or hairdressing and cosmetic therapy and~~
13 ~~manicuring or esthetics; provided, that no license shall be issued to any person under this chapter~~
14 ~~unless the applicant for the license:~~

15 ~~(1) Is at least eighteen (18) years of age;~~

16 ~~(2) Is a citizen of the United States of America or has legal entry into the country;~~

17 ~~(3) Is of good moral character;~~

18 ~~(4) Is a high school graduate or holds the equivalent or has twenty five (25) or more years~~
19 ~~of prior experience in the practice for which the license is sought;~~

20 ~~(5) Has satisfactorily completed the course of instruction in an approved school of~~
21 ~~barbering, hairdressing and cosmetic therapy and/or manicuring or esthetics;~~

22 ~~(6) Has satisfactorily passed a written and a practical examination approved by the~~
23 ~~division to determine the fitness of the applicant to receive a license; and~~

24 ~~(7) Has complied with § 5-10-10 and any other qualifications that the division prescribes~~
25 ~~by regulation.~~

26 ~~(b) Notwithstanding the provision of subdivision (a)(4), on and after July 1, 1997, an~~
27 ~~applicant seeking licensure as a barber must be a high school graduate or hold the equivalent~~
28 ~~combination of education and experience.~~

29 ~~(c) The division may license, on a case by case basis, with or without examination, any~~
30 ~~individual who has been licensed as an esthetician, barber, cosmetologist, electrologist or~~
31 ~~manicurist under the laws of another state, which, in the opinion of the division, maintains a~~
32 ~~standard substantially equivalent to that of the state of Rhode Island.~~

33 **5-10-9. Classes of licenses.**

34 ~~Licenses shall be divided into the following classes and shall be issued by the division to~~

1 ~~applicants for the licenses who have qualified for each class of license:~~

2 ~~(1) A "hairdresser's and cosmetician's license" shall be issued by the division to every~~
3 ~~applicant for the license who meets the requirements of § 5-10-8 and has completed a course of~~
4 ~~instruction in hairdressing and cosmetology consisting of not less than twelve hundred (1,200)~~
5 ~~hours of continuous study and practice.~~

6 ~~(2) An "instructor's license" shall be granted by the division to any applicant for the~~
7 ~~license who has held a hairdresser's and cosmetician's license, a barber's license, a manicurist's~~
8 ~~license, or an esthetician's license, issued under the laws of this state or another state, for at least~~
9 ~~the three (3) years preceding the date of application for an instructor's license and:~~

10 ~~(i) Meets the requirements of § 5-10-8;~~

11 ~~(ii) Has satisfactorily completed three hundred (300) hours of instruction in hairdressing~~
12 ~~and cosmetology, barber, manicurist, or esthetician teacher training approved by the division as~~
13 ~~prescribed by regulation;~~

14 ~~(iii) Has satisfactorily passed a written and a practical examination approved by the~~
15 ~~division to determine the fitness of the applicant to receive an instructor's license;~~

16 ~~(iv) Has complied with § 5-10-10; and~~

17 ~~(v) Has complied with any other qualifications that the division prescribes by regulation.~~

18 ~~(3) A "manicurist license" shall be granted to any applicant for the license who meets the~~
19 ~~following qualifications:~~

20 ~~(i) Meets the requirements of § 5-10-8; and~~

21 ~~(ii) Has completed a course of instruction, consisting of not less than three hundred (300)~~
22 ~~hours of professional training in manicuring, in an approved school.~~

23 ~~(4) An "esthetician license" shall be granted to any applicant for the license who meets~~
24 ~~the following qualifications:~~

25 ~~(i) Meets the requirements of § 5-10-8;~~

26 ~~(ii) Has completed a course of instruction in esthetics, consisting of not less than six~~
27 ~~hundred (600) hours of continuous study and practice over a period of not less than four (4)~~
28 ~~months, in an approved school of hairdressing and cosmetology; and~~

29 ~~(iii) Any applicant who holds a diploma or certificate from a skin care school, that is~~
30 ~~recognized as a skin care school by the state or nation in which it is located, and meets the~~
31 ~~requirements of subdivision (i) of this subsection, shall be granted a license to practice esthetics;~~
32 ~~provided, that the skin care school has a requirement that, in order to graduate from the school, a~~
33 ~~student must have completed a number of hours of instruction in the practice of skin care, which~~
34 ~~number is at least equal to the number of hours of instruction required by the division.~~

1 ~~(5) A "barber" license shall be issued by the division to every applicant for the license~~
2 ~~who meets the requirements of § 5-10-8 and:~~

3 ~~(i) Has completed a course of instruction in barbering consisting of not less than one~~
4 ~~thousand five hundred (1,500) hours of continuous study and practice in an approved school;~~

5 ~~(ii) Has possessed, for at least two (2) years prior to the filing of the application, a~~
6 ~~certificate of registration in full force and effect from the department of health of the state~~
7 ~~specifying that person as a registered, apprentice barber, and the application of that applicant is~~
8 ~~accompanied by an affidavit, or affidavits, from his or her employer, or former employers, or~~
9 ~~other reasonably satisfactory evidence showing that the applicant has been actually engaged in~~
10 ~~barbering as an apprentice barber in the state during those two (2) years; or~~

11 ~~(iii) A combination of barber school training and apprenticeship training as determined~~
12 ~~by the rules and regulations prescribed by the division.~~

13 ~~**5-10-9.1. License portability.**~~

14 ~~Notwithstanding any general law, special law, public law, or rule or regulation to the~~
15 ~~contrary, any licensed barber, hairdresser, cosmetician, manicurist, or esthetician who operates as~~
16 ~~an independent contractor at any "hair design shop" licensed pursuant to § 5-10-15, shall be~~
17 ~~permitted to relocate, without obtaining a new license, to another licensed, hair design shop once~~
18 ~~during the term of their one year license issued by the department of health.~~

19 ~~**5-10-10. Application form -- Fee -- Expiration and renewal of licenses -- Fees.**~~

20 ~~(a) Applications for licenses under § 5-10-9 shall be made upon any forms that are~~
21 ~~prescribed by the division and are accompanied by an application fee established in regulation.~~
22 ~~The license of every person licensed under §§ 5-10-8 and 5-10-9 shall expire on the thirtieth~~
23 ~~(30th) day of October of every other year following the date of license. This is determined on an~~
24 ~~odd-even basis. On or before the first day of September of every year, the administrator of~~
25 ~~professional regulation shall mail an application for renewal of license to people scheduled to be~~
26 ~~licensed that year on an odd or even basis as to the license number. Every person who wishes to~~
27 ~~renew his or her license must file with the administrator of professional regulation a renewal~~
28 ~~application duly executed together with the renewal fee as set forth in § 23-1-54. Applications,~~
29 ~~accompanied by the fee for renewal, shall be filed with the division on or before the fifteenth~~
30 ~~(15th) day of October in each renewal year. Upon receipt of the application and fee, the~~
31 ~~administrator of professional regulation shall grant a renewal license effective October 1st and~~
32 ~~expiring two (2) years later on September 30th.~~

33 ~~(b) Every person who fails to renew his or her license on or before September 30th~~
34 ~~following the date of issuance as provided in subsection (a) of this section may be reinstated by~~

1 ~~the division upon payment of the current renewal fee as set forth in § 23-1-54.~~

2 ~~(c) The license shall be on the person at all times while performing the services for which~~
3 ~~they are licensed.~~

4 **5-10-11. Persons licensed in other states.**

5 ~~(a) Any person licensed to practice barbering, hairdressing, and cosmetic therapy and/or~~
6 ~~manicuring or esthetics in another state where the requirements are the equivalent of those of this~~
7 ~~state is entitled to a license as a barber, hairdresser, and cosmetician and/or manicurist or~~
8 ~~esthetician operator upon the acceptance of his or her credentials by the division; provided, that~~
9 ~~the state in which that person is licensed extends a similar privilege to licensed barbers,~~
10 ~~hairdressers, and cosmetic therapists and/or manicurists or esthetics of this state. If a person~~
11 ~~applies for a hairdressing license who was licensed in another state where the requirements are~~
12 ~~not equivalent to those of this state, the division shall give to that person one hundred (100) hours~~
13 ~~instructional credit for three (3) months that the person was licensed and in actual practice, up to a~~
14 ~~limit of five hundred (500) hours, in order for that person to meet the requirements for a~~
15 ~~hairdressing license in this state as established under the provisions of §§ 5-10-8 and 5-10-9.~~

16 ~~(b) If a person applies for a manicurist or esthetician license and is currently licensed in~~
17 ~~another state, that person may be granted a license if he or she passes the written and practical~~
18 ~~examinations conducted by the division.~~

19 ~~(c) The fee for the application is as set forth in § 23-1-54; provided, that the provisions of~~
20 ~~this chapter shall not be construed as preventing persons who have been licensed by examination~~
21 ~~under the laws of other states of the United States or territories and the District of Columbia from~~
22 ~~practicing barbering, hairdressing, and cosmetic therapy and/or manicuring or esthetics in this~~
23 ~~state for a period of three (3) months; provided, that they apply for and are licensed in this state~~
24 ~~within three (3) months from the commencement of their employment. Nor shall it be construed~~
25 ~~as prohibiting persons who have been licensed under the laws of another country or territory from~~
26 ~~practicing barbering, hairdressing, and cosmetic therapy and/or manicuring or esthetics in this~~
27 ~~state; provided, that practice is in conformity with the rules and regulations of the division; and~~
28 ~~provided, that in no case shall that practice cover a period of more than three (3) months from the~~
29 ~~commencement of that employment.~~

30 **5-10-12. Repealed.**

31 **5-10-13. Repealed.**

32 **5-10-14. Repealed.**

33 **5-10-15. Licensing of shops.**

34 ~~(a) No shop, place of business or establishment shall be opened or conducted within the~~

1 ~~state by any person, association, partnership, corporation, or otherwise for the practice of~~
2 ~~barbering, manicuring and/or hairdressing and cosmetic therapy or esthetics until the time that~~
3 ~~application for a license to operate that shop, place of business or establishment for the practice of~~
4 ~~manicuring and/or hairdressing and cosmetic therapy or esthetics is made, to the division, in the~~
5 ~~manner and on the forms that it prescribes, and a license, under the terms and conditions, not~~
6 ~~contrary to law, that the division requires shall be granted for it and a license issued.~~

7 ~~(1) No licenses shall be granted to any shop, place of business, or establishment for the~~
8 ~~practice of hairdressing and cosmetic therapy unless the proprietor or a supervising manager in~~
9 ~~the practice of barbering, hairdressing and cosmetic therapy, of the shop, place of business, or~~
10 ~~establishment is licensed and has been licensed as a licensed barber or hairdresser and~~
11 ~~cosmetician for a period of at least one year immediately prior to the filing of the application for~~
12 ~~the license.~~

13 ~~(2) No license shall be granted to any shop, place of business, or establishment for the~~
14 ~~practice of manicuring or esthetics unless the proprietor or a supervising manager of the~~
15 ~~proprietor is licensed and has been licensed as a licensed barber, hairdresser and cosmetician,~~
16 ~~manicurist or esthetician for a period of at least one year immediately prior to the filing of the~~
17 ~~application for the license.~~

18 ~~(3) The supervising manager shall be registered with the division as the manager of a~~
19 ~~licensed shop and shall only be registered to manage one shop at a time. The proprietor of the~~
20 ~~licensed shop and the manager shall notify the division, in writing, within ten (10) days upon the~~
21 ~~termination of employment as the manager of the licensed shop. The license of the shop shall~~
22 ~~expire forty five (45) days after the division is notified by the proprietor if no new manager is~~
23 ~~registered with the division as the supervising manager of the shop.~~

24 ~~(b) All licenses issued under this section shall terminate on the first day of July following~~
25 ~~the date of issue. The fee for the license is as set forth in § 23-1-54.~~

26 ~~**5-10-16. [Repealed.]**~~

27 ~~**5-10-17, 5-10-18. Repealed.**~~

28 ~~**5-10-19. Application forms.**~~

29 ~~The division shall prepare and furnish any forms to be used by applicants for the various~~
30 ~~licenses, permits, registrations, and certificates provided for in this chapter, that it deems proper~~
31 ~~and expedient.~~

32 ~~**5-10-20. Electrolysis not permitted by license.**~~

33 ~~No license issued under any of the provisions of this chapter shall be construed to~~
34 ~~authorize, as a part of the practice of hairdressing and cosmetic therapy, the practice of~~

1 ~~"electrolysis", which, for the purpose of this chapter, is defined as the insertion of an electrically~~
2 ~~heated instrument at the root of a hair to prevent the growth of the hair.~~

3 ~~**5-10-21. Advertising.**~~

4 ~~No person or establishment licensed under the provisions of this chapter shall advertise~~
5 ~~by written or spoken words of a character tending to deceive or mislead the public.~~

6 ~~**5-10-22. Repealed.**~~

7 ~~**5-10-23. Fixed place of business.**~~

8 ~~(a) Except as provided in this section, manicuring, esthetics, barbering and/or~~
9 ~~hairdressing and cosmetic therapy, as defined in this chapter, shall be practiced only in a shop~~
10 ~~licensed under § 5-10-15. Nothing contained in this chapter shall be construed to prohibit the~~
11 ~~practice of barbering, manicuring, and hairdressing and cosmetic therapy and esthetics in the~~
12 ~~same shop or place of business.~~

13 ~~(b) Nothing in this section shall restrict a hairdresser licensed pursuant to this chapter,~~
14 ~~operating in a licensed nursing service agency, from providing services to an individual who is~~
15 ~~homebound at their home. For purposes of this section, "homebound" is defined as any person~~
16 ~~who is considered housebound for purpose of federal Medicare eligibility.~~

17 ~~(c) Nothing in this section shall restrict any person licensed pursuant to this chapter from~~
18 ~~providing services to an individual who is homebound at their home as verified by a licensed~~
19 ~~health care professional.~~

20 ~~(d) Nothing in this section shall restrict or prohibit any person licensed pursuant to this~~
21 ~~chapter from providing services to an individual residing in any Department of Housing and~~
22 ~~Urban Development (H.U.D.) recognized housing for the elderly in the H.U.D. recognized~~
23 ~~housing in which the individual resides. Those services shall be provided in a separate room~~
24 ~~inspected by the department of health. Students enrolled in programs of hairdressing, barbering~~
25 ~~and/or cosmetology are prohibited in H.U.D. recognized housing.~~

26 ~~(e) Nothing in this section shall restrict or prohibit any person licensed pursuant to this~~
27 ~~chapter from providing services to an individual outside a licensed shop as part of a special~~
28 ~~occasion event, such as a wedding or prom, so long as those services are limited to hair styling~~
29 ~~and makeup, and the health and sanitation standards expected of licensees in licensed shops are~~
30 ~~followed.~~

31 ~~**5-10-24. Repealed.**~~

32 ~~**5-10-25. Inspection powers of the division -- Denial of access.**~~

33 ~~Any person employed, authorized and empowered by the division of professional~~
34 ~~regulation may enter any shop, place of business, or establishment licensed under the provisions~~

1 of this chapter during the hours the shop, place of business, establishment, or school of barbering,
2 manicuring, or hairdressing and cosmetic therapy is open for business, for the purpose of
3 inspecting its sanitary conditions and ascertaining if the provisions of this chapter and the rules
4 and regulations for the practice of barbering, hairdressing, and cosmetic therapy as established by
5 the division are being observed in the operation of that shop or place of business, and failure or
6 refusal of the person in charge of that shop, place of business, establishment, or school to permit
7 inspection at all reasonable times is deemed sufficient cause for the revocation of any license
8 issued to that shop, place of business, or establishment and any certificate of approval issued by
9 the division.

10 **5-10-26. Revocation or suspension of license, permit, or certificate.**

11 Any license, permit, certificate of approval, or registration issued by the division under
12 this chapter, or any section of this chapter, may be revoked or suspended by the division for
13 violation of any provision of this chapter, failure to comply with any rules and regulations, not
14 contrary to law, that the division adopts for the sanitation, regulation, and control of the practice
15 of barbering, manicuring or hairdressing and cosmetic therapy, and for any other cause, or for any
16 other cause, that the division deems sufficient; provided, that no license, permit, certificate of
17 approval, or regulation shall be suspended or revoked without the holder of the license, permit,
18 certificate of approval, or registration first being given ten (10) days' notice, in writing, specifying
19 the complaint made and the charges preferred against the accused and a reasonable opportunity
20 given the accused to present evidence and testimony and to be represented by counsel at a hearing
21 or hearings, to be held by the division upon the complaint and charges preferred against the
22 accused.

23 **5-10-27. Reinstatement after revocation or suspension.**

24 A license, permit, certificate of approval, or registration suspended or revoked pursuant
25 to § 5-10-26 may, in the discretion of the division, be reinstated or reissued under any terms and
26 conditions, not contrary to law, that the division requires.

27 **5-10-28. Appeals.**

28 Any person aggrieved by any decision or ruling of the division may appeal it to the
29 administrator of the division or his or her designee. A further appeal may then be made to the
30 appropriate board of examiners. Any person aggrieved by any decision or ruling of the board may
31 appeal it to the director of the department. Any further appeal from the action of the director is in
32 accordance with the provisions of chapter 35 of title 42. For the purpose of this section the
33 division is considered a person.

34 **5-10-29. Persons exempt from chapter.**

1 ~~The provisions and penalties of this chapter do not apply to licensed physicians,~~
2 ~~osteopaths, chiropractors, or registered nurses when acting within the scope of their professions~~
3 ~~or occupations as defined by law.~~

4 ~~**5-10-30. Penalty for violations.**~~

5 ~~Any violation of this chapter or any of the provisions of this chapter shall be a~~
6 ~~misdemeanor and any person, association, partnership, or corporation convicted of a violation of~~
7 ~~this chapter shall be fined not exceeding two hundred dollars (\$200), or imprisoned not exceeding~~
8 ~~three (3) months, or both.~~

9 ~~**5-10-31. Prosecution of violations.**~~

10 ~~Complaints for violations of the provisions of this chapter shall be made by the division,~~
11 ~~the board of hairdressing, or a member or any person authorized by the division, and the~~
12 ~~complainant shall not be required to recognize for costs; provided, that if the division, board or~~
13 ~~any member refuses or unreasonably neglects to prosecute a violation of this chapter, any person~~
14 ~~holding any license issued by the division may complain to the attorney general, who shall assign~~
15 ~~a member of his or her department to investigate the complaint and, if reasonable cause for the~~
16 ~~complaint is found to exist, shall diligently prosecute the person, association, partnership, or~~
17 ~~corporation violating the provisions of this chapter or portion of this chapter.~~

18 ~~**5-10-32. Enforcement of chapter -- Annual reports.**~~

19 ~~The division is specifically charged with the enforcement of this chapter, shall investigate~~
20 ~~all complaints for violations of the provisions of this chapter, and shall hold a hearing upon any~~
21 ~~complaint for any violation of the chapter within thirty (30) days after the filing of the complaint~~
22 ~~and render a decision, in writing, within ten (10) days from the close of the hearing. If the~~
23 ~~division finds that any of the provisions of this chapter have been violated, it shall immediately~~
24 ~~institute any criminal prosecution that the violation warrants.~~

25 ~~**5-10-33. Payment of fees.**~~

26 ~~All fees that are required to be paid under the provisions of this chapter shall be paid to~~
27 ~~the department of health and deposited as general revenues.~~

28 ~~**5-10-34. Repealed.**~~

29 ~~**5-10-35. Severability.**~~

30 ~~If any provision or provisions of this chapter or the application of the chapter to any~~
31 ~~person or circumstance is held invalid by a court of competent authority, that invalidity does not~~
32 ~~affect other provisions or applications of this chapter which can be given effect without that~~
33 ~~invalid provision or provisions or application of the provision or provisions, and to this end the~~
34 ~~provisions of this chapter are declared to be separable.~~

1 ~~**5-10-36. Receipts.**~~

2 ~~All proceeds of any fees collected pursuant to the provisions of this chapter shall be~~
3 ~~deposited as general revenues.~~

4 ~~**5-10-37, 5-10-38. Repealed.**~~

5 ~~**5-10-39. Demonstrator's permit.**~~

6 ~~The division may, in its discretion, issue to any person recognized by the division as an~~
7 ~~authority on, or an expert in, the theory or practice of barbering, hairdressing, and cosmetic~~
8 ~~therapy and/or manicuring or esthetics, and is the holder of a current esthetician's, manicurist's or~~
9 ~~a barber's, hairdresser's, and cosmetician's license in this state, another state, or the District of~~
10 ~~Columbia, a demonstrator's permit for not more than six (6) days' duration for educational and~~
11 ~~instructive demonstrations; provided, that the permit shall not be used in the sense of a license to~~
12 ~~practice barbering, manicuring, esthetics, or hairdressing and cosmetic therapy. The fee for the~~
13 ~~permit is as set forth in § 23-1-54.~~

14 SECTION 2. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
15 is hereby amended by adding thereto the following chapter:

16 CHAPTER 10.1

17 LICENSING OF NAIL SPECIALTY, NATURAL HAIR STYLING, WAXING, ESTHETICS
18 AND COSMETOLOGY

19 (a) As used in this chapter:

20 (1) "Appearance enhancement business" means the business of providing any or all of the
21 services licensed pursuant to this chapter at a fixed location.

22 (2) "Cosmetology" means the practice of providing service to the hair, head, face, neck or
23 scalp of a human being, including, but not limited to, shaving, trimming, and cutting the hair or
24 beard either by hand or mechanical appliances and the application of antiseptics, powders, oils,
25 clays, lotions or applying tonics to the hair, head, or scalp, and in addition includes providing, for
26 a fee or any consideration or exchange, whether direct or indirect, services for the application of
27 dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the
28 structure of the hair of a human being.

29 (3) "Department" means the department of health.

30 (4) "Director" means the director of the department of health

31 (5) "Esthetics" means the practice of providing for a fee, or any consideration or
32 exchange, whether direct or indirect, services to enhance the appearance of the face, neck, arms,
33 legs, or shoulders of a human being by the use of compounds or procedures including makeup,
34 eyelashes, depilatories, tonics, lotions, waxes, sanding and tweezing, whether performed by

1 manual, mechanical, chemical or electrical means and instruments, but shall not include the
2 practice of electrology.

3 (6) "Licensee" means a person licensed pursuant to this chapter to engage in the practice
4 of natural hair styling, esthetics, nail specialty, cosmetology or waxing, or to operate an
5 appearance enhancement business in which such practice, as herein defined, is provided to the
6 public.

7 (7) "Nail specialty" means the practice of providing services for a fee or any
8 consideration or exchange to cut, shape or to enhance the appearance of the nails of the hands or
9 feet. Nail specialty shall include the application and removal of sculptured or artificial nails.

10 (8) "Natural hair styling" means the practice of providing for a fee, or any consideration
11 or exchange, whether direct or indirect, any of the following services to the hair of a human
12 being: shampooing, arranging, dressing, twisting, wrapping, weaving, extending, locking or
13 braiding the hair or beard by either hand or mechanical appliances. Such practice shall not include
14 cutting, shaving or trimming hair except that such activities are permissible to the extent that such
15 activities are incidental to the practice of natural hair styling. Such practice shall not include the
16 application of dyes, reactive chemicals, or other preparations to alter the color or to straighten,
17 curl, or alter the structure of the hair. All natural hair styling may be performed by anyone,
18 without licensing.

19 (9) "Person" means an individual, firm, limited liability company, partnership or
20 corporation.

21 (10) "Trainee" means a person pursuing in good faith a course of study in the practice of
22 nail specialty under the tutelage, supervision and direction of a licensed nail practitioner. Such
23 trainee shall be employed by a licensed appearance enhancement business.

24 (11) "Waxing" means the practice of providing for a fee, or any consideration or
25 exchange, whether direct or indirect, services to enhance, including, but not limited to, the
26 appearance of the face, neck, arms, legs, or shoulders of a human being by the removal of hair by
27 the use of depilatories, waxes or tweezing, but shall not include the practice of electrology.

28 **5-10.1-2. License required.**

29 (a) No person shall engage in the practice of nail specialty, waxing, esthetics or
30 cosmetology, without having received a license to engage in such practice in the manner
31 prescribed in this chapter. No person shall act as a trainee or perform any service as such unless
32 he or she has obtained a certification of registration pursuant to this chapter.

33 (b) No person shall own, control or operate, whether as a sole proprietor, partner,
34 shareholder, officer, independent contractor or other person, an appearance enhancement business

1 without having received a license for such business in the manner provided in this chapter.

2 (c) A person licensed by any other state or country to practice nail specialty, waxing,
3 natural hair styling, esthetics or cosmetology shall be allowed to practice in this state for six (6)
4 months or fewer within any calendar year for the purpose of giving to, or receiving from, persons
5 who are licensed under this chapter training in current styles, techniques or materials; provided
6 however, that no such unlicensed person may provide services to the public for any fee, or other
7 compensation, whether direct or indirect.

8 **5-10.1-3. Powers of the department.**

9 In addition to the powers and duties elsewhere prescribed in this chapter, the department
10 shall have power to:

11 (1) Appoint a sufficient number of assistants, inspectors and other employees as may be
12 necessary to carry out the provisions of this chapter, to prescribe their duties, and to fix their
13 compensation within the amount appropriated;

14 (2) Examine the qualifications and fitness of applicants for licenses and prospective
15 applicants taking examinations under this chapter;

16 (3) Keep records of all licenses issued, suspended or revoked, or orders directing the
17 cessation of unlicensed activities;

18 (4) Prepare a manual of rules and regulations for the conduct of examinations and to
19 furnish copies to persons desiring the manual upon payment of a reasonable fee; and

20 (5) Adopt rules and regulations consistent with the provisions of this chapter, as may be
21 necessary with respect to the form and content of applications for licenses, the reception of
22 applications, the investigation and examination of applicants and of prospective applicants taking
23 examinations and their qualifications, and the other matters incidental or appropriate to the
24 powers and duties of the department as prescribed by this chapter and for the proper
25 administration and enforcement of the provisions of this chapter.

26 **5-10.1-4. Rules and regulations.**

27 (a) The department shall promulgate rules and regulations which establish standards for
28 practice and operation by licensees and trainees under this chapter in order to ensure the health,
29 safety and welfare of the public including licensees and trainees when they are working within
30 such establishments.

31 (b) Such rules and regulations shall include, but not be limited to, the sanitary conditions
32 and procedures required to be maintained.

33 **5-10.1-5. Monomeric methyl methacrylate.**

34 (a) No owner or operator of an appearance enhancement business shall knowingly and

1 willfully:

2 (1) Sell, use or apply to any person monomeric methyl methacrylate; or

3 (2) Direct any agent or employee of such business to sell, use or apply to any person
4 monomeric methyl methacrylate.

5 (b) A first violation of this section shall be punishable by a civil penalty of not more than
6 one thousand dollars (\$1,000). A second or any subsequent violation of this section shall be a
7 misdemeanor and shall be punishable by a fine of not more than one thousand five hundred
8 dollars (\$1,500).

9 **5-10.1-6. Appearance enhancement business license; requirements.**

10 (a) Any person who receives an appearance enhancement business license shall operate
11 such business at the location named in the license and in accordance with the rules and
12 regulations promulgated by the department pursuant to § 5-10.1-5. Any or all of the practices
13 regulated by this chapter may be provided under one appearance enhancement business license so
14 long as each practitioner is an appropriate licensee.

15 (b) An appearance enhancement business licensee shall file and maintain, during the term
16 of the license, evidence of a bond or liability insurance.

17 **5-10.1-7. License application; procedure; requirements; temporary license.**

18 (a) Any person intending to practice nail specialty, waxing, natural hair styling, esthetics
19 or cosmetology as defined in this chapter, or to own or operate an appearance enhancement
20 business, shall first make application to the department for a license.

21 (b) The department shall issue licenses provided that no license shall be issued to any
22 person under this chapter unless the applicant for the license:

23 (1) Is at least seventeen (17) years of age; and

24 (2) Has satisfactorily passed a written and practical examination approved by the division
25 to determine the fitness of the applicant to receive a license.

26 (c) The application shall be subscribed by the applicant and affirmed under penalty of
27 perjury.

28 (d) Each application shall be accompanied by the appropriate fee as prescribed by this
29 chapter.

30 (e) Any person seventeen (17) years of age or older may apply to the department for a
31 license to practice nail specialty, waxing, natural hair styling, esthetics or cosmetology.

32 (1) Each such application shall also be accompanied by satisfactory evidence of having
33 taken and passed the appropriate examination or examinations offered by the department pursuant
34 to this chapter for the license sought and evidence of the successful completion of an approved

1 course of study in nail specialty, waxing, natural hair styling, esthetics or cosmetology in a school
2 duly licensed pursuant to the department of education.

3 (2) Any applicant for a license to practice nail specialty, waxing, natural hair styling,
4 esthetics or cosmetology may submit satisfactory evidence of licensure to practice an equivalent
5 occupation issued by any other state, territory, protectorate or dependency of the United States or
6 any other country in lieu of the evidence of schooling and examination required by this
7 subsection, provided that such license was granted in compliance with standards which were, in
8 the judgment of the director, not lower than those of this state, and provided that such state,
9 territory, protectorate, dependency, or country extends similar reciprocity to the licensees of this
10 state or the applicant practiced an equivalent occupation in such state, territory, protectorate,
11 dependency or country for a minimum of five (5) years, or the applicant is a member of the
12 household of a member of the armed forces of the United States, National Guard or Reserves and
13 was a member of such household before such member relocated to the state.

14 (f) Notwithstanding the educational requirements of this section and the testing
15 requirements of this section, an applicant who otherwise has met the licensing requirements of
16 this chapter for a nail specialist, waxer, natural hair stylist, esthetician or cosmetologist who shall
17 provide satisfactory evidence that he or she has been actively and continuously engaged in the
18 practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology for at least one
19 year prior to the effective date of this chapter, may be issued a license for nail specialty, waxing,
20 natural hair styling, esthetics or cosmetology pursuant to this chapter. Notwithstanding the
21 educational and testing requirements of this section, a person licensed to practice barbering who
22 otherwise has met the licensing requirements of this chapter may be issued a license to practice
23 natural hair styling. Other than applicants licensed under this chapter, those persons who apply
24 after a twelve (12) month period, from the effective date of this chapter will be required to
25 provide evidence of training and to take the examination or examinations as required for other
26 licenses pursuant to this chapter.

27 (g) Upon acceptance by the department of a proper application for an operator's license to
28 practice nail specialty, waxing, natural hair styling, esthetics or cosmetology, the department may
29 issue a temporary operator's license which shall expire six (6) months from issuance. Upon good
30 cause shown, the department may renew a temporary operator's license for one additional six (6)
31 month period upon filing the appropriate application and fee.

32 (h) Appearance enhancement business license. Any person, eighteen (18) years of age or
33 older, or any firm, limited liability company, partnership or corporation having at least one
34 member eighteen (18) years of age or older may apply to the department for an appearance

1 enhancement business license. Each such application for an appearance enhancement business
2 license shall be accompanied by evidence of a bond or liability insurance. Notwithstanding any
3 provision contained in this chapter to the contrary, if any person, eligible for any license, should
4 be called to active military service at or during the time application for any license is required to
5 be filed and license fee paid, the period within which said application may be filed and license fee
6 may be paid, is extended on behalf of such person, until three (3) months after the termination of
7 said military service. In the case of persons who are called to active military service and will be
8 discharged from active military service, the period of two (2) years need not be continuous. The
9 length of time such person was engaged in the practice of nail specialty, waxing, natural hair
10 styling, esthetics or cosmetology before entering active military service may be added to any
11 period of time during which such person was or is engaged in the practice of nail specialty,
12 waxing, natural hair styling, esthetics or cosmetology after the termination of active military
13 service.

14 (i) The department shall include in any required application for licensure, as described in
15 this chapter, a qualitative survey for the purposes of policy impact evaluation. The survey should
16 be anonymized, not used for determining license approval, and the results published for the
17 public. The survey must include questions on employment status, household income,
18 race/ethnicity/first generation immigrant status, satisfaction with and perceived burden of the
19 application and licensing process, and whether lower licensure requirements made the applicant
20 more likely to apply, and reason for applying for a license.

21 **5-10.1-8. Examinations.**

22 (a) The examinations for the license to practice natural hair styling, esthetics, nail
23 specialty and cosmetology shall be practical and written. The examination for the license to
24 practice waxing shall be limited to a written examination only. The director shall determine
25 reasonable standards of performance for each license and shall evaluate the prospective applicants
26 and applicants on the basis of such standards. The objectives of the examinations shall be to
27 ensure that prospective applicants and applicants have sufficient basic skills to safeguard the
28 health and safety of the public and to ensure that prospective applicants and applicants have
29 attained adequate levels of skill to competently engage in the activities authorized by the license.

30 (b) The director shall prepare examination questions for persons to qualify for licensure
31 under this chapter. All such examinations shall be the same for all persons for the license sought
32 at any given examination. Such test shall not be limited to any specific method or system.

33 (c) Examinations shall be in the English language and, at the discretion of the director,
34 may be translated or transposed into any other language if requested by the prospective applicant

1 and upon satisfactory proof of the need; provided that a request for such a translated examination
2 is made of the department at the time the application for license is filed. In the case of physically
3 disabled persons, provision for the alternative administration of the examination may be made,
4 provided a request for such procedure is made of the department a reasonable time in advance of
5 the examination. Examinations shall be held at least quarterly and shall be given in at least two
6 (2) convenient places in the state.

7 **5-10.1-9. Classes of licenses.**

8 (a) Licenses shall be divided into the following classes and shall be issued by the
9 department to applicants for the licenses who have qualified for each class of license:

10 (1) A "hairdresser's and cosmetician's license" shall be issued by the division to every
11 applicant for the license who meets the requirements of § 5-10.1-7 and has completed a course of
12 instruction in hairdressing and cosmetology consisting of not less than six hundred (600) hours of
13 continuous study and practice.

14 (2) An "instructor's license" shall be granted by the division to any applicant for the
15 license who has held a hairdresser's and cosmetician's license, a barber's license, a manicurist's
16 license, or an esthetician's license, issued under the laws of this state or another state, for at least
17 the three (3) years preceding the date of application for an instructor's license and:

18 (i) Meets the requirements of § 5-10.1-7;

19 (ii) Has satisfactorily completed three hundred (300) hours of instruction in hairdressing
20 and cosmetology, barber, manicurist, or esthetician teacher training approved by the department
21 as prescribed by regulation;

22 (iii) Has satisfactorily passed a written and a practical examination approved by the
23 department to determine the fitness of the applicant to receive an instructor's license;

24 (iv) Has complied with § 5-10.1-7; and

25 (v) Has complied with any other qualifications that the division prescribes by regulation.

26 (3) A "manicurist license" shall be granted to any applicant for the license who meets the
27 following qualifications:

28 (i) Meets the requirements of § 5-10.1-7; and

29 (ii) Has completed a course of instruction, consisting of not less than two hundred (200)
30 hours of professional training in manicuring, in an approved school.

31 (4) An "esthetician license" shall be granted to any applicant for the license who meets
32 the following qualifications:

33 (i) Meets the requirements of § 5-10.1-7;

34 (ii) Has completed a course of instruction in esthetics, consisting of not less than three

1 hundred (300) hours of continuous study and practice in an approved school of hairdressing and
2 cosmetology; and

3 (iii) Any applicant who holds a diploma or certificate from a skin-care school, that is
4 recognized as a skin-care school by the state or nation in which it is located, and meets the
5 requirements of subsection (4)(i) of this section, shall be granted a license to practice esthetics;
6 provided, that the skin-care school has a requirement that, in order to graduate from the school, a
7 student must have completed a number of hours of instruction in the practice of skin care, which
8 number is at least equal to the number of hours of instruction required by the division.

9 (5) A "barber" license shall be issued by the division to every applicant for the license
10 who meets the requirements of § 5-10.1-7, and:

11 (i) Has completed a course of instruction in barbering consisting of not less than six
12 hundred (600) hours of continuous study and practice in an approved school.

13 **5-10.1-10. Licenses; display; renewal; duplicates.**

14 (a) All licenses shall expire ten (10) years from the date of issuance. No license shall be
15 assignable or transferrable except pursuant to the provisions of this chapter.

16 (b) An appearance enhancement business license may be assigned. When the appearance
17 enhancement business licensee is a partnership or a limited liability company, or a corporation,
18 the license may be assigned upon the consent of all members of a partnership or a majority of the
19 voting members of a limited liability company or the majority shareholders of a corporation,
20 respectively. The application for such transfer or assignment must be accompanied by proof
21 satisfactory to the department that the requirements herein provided have been complied with. No
22 assignment or transfer shall become effective unless and until the endorsement has been made on
23 the face of the license by the department and such license, as endorsed, has been returned to the
24 assignee or transferee. All such requests for endorsements shall be accompanied by a five dollar
25 (\$5.00) fee. A bona fide purchaser of a licensed appearance enhancement business may continue
26 to use the license of the seller for a period of thirty (30) days from the date of the sale; provided,
27 there is endorsed on the face thereof the name of the purchaser, the date of the sale, and the
28 signatures of the seller and the purchaser; and provided further, within five (5) working days from
29 the date of the sale an application, shall be presented by the purchaser to the department for an
30 appearance enhancement business license.

31 (c) An appearance enhancement business license issued to an individual or to a
32 partnership may be used after the death of the licensed individual or co-partner by the next of kin
33 or duly appointed administrator or executor in the name of the estate for a period of not more than
34 one hundred twenty (120) days from the date of death of such individual or co-partner; provided

1 that, there is endorsed upon the face of the license certificate after the name of the decedent the
2 word "deceased", the date of death and the name of the next of kin, administrator or executor
3 under whose authority the license is being used; the period of one hundred twenty (120) days may
4 be extended upon application to the department and for good cause shown for an additional
5 period not to exceed one hundred twenty (120) days. Any license so continued which shall expire
6 during such period of one hundred twenty (120) days or the extension thereof may be renewed by
7 the next of kin, administrator or executor for the balance of such period or the extension thereof.

8 (d) A license certificate shall be posted in some conspicuous place in the licensed
9 premises or in the place where the practice of an occupation licensed pursuant to this chapter is
10 conducted. At the entrance to each licensed premises or at the entrance to any place where the
11 practice of an occupation licensed is conducted, a sign shall be posted which shall include the
12 rules and regulations governing such practice and a manner in which aggrieved persons may
13 register a complaint with the department. The department shall prepare and furnish such sign to
14 each licensee.

15 (e) Any license, which has not been suspended or revoked, may, upon the payment of the
16 renewal fee, be renewed for additional periods of ten (10) years from its application, without
17 further examination, upon the filing of an application for such renewal, on a form to be prescribed
18 by the department.

19 (f) Any person failing to file for renewal of a license pursuant to the provisions of this
20 chapter within one year immediately following the expiration of such person's last license shall
21 pay an additional fee of ten dollars (\$10.00), and if such person fails to file application and fee for
22 renewal within five (5) years, such person shall be ineligible for such license until such person
23 shall have again passed an examination.

24 (g) A duplicate license certificate may be issued for one lost, destroyed or mutilated upon
25 the application on a form prescribed by the department and the payment of the fee prescribed by
26 this chapter. Each such duplicate license shall have the word "duplicate" stamped across the face
27 and shall bear the same number as the one it replaces.

28 (h) Notice in writing shall be given to the director, by the holder of an appearance
29 enhancement business license of any change of address. The licensee shall correct the address on
30 the license upon the filing of such notice.

31 (i) Any licensee who fails to file any notice of change in the status of a license required
32 by the provisions of this chapter shall be subject to the monetary fines set forth in §5-10.1-13.

33 (j) Such license certificate shall contain a photograph of the licensee and the licensee's
34 name. Nowhere on the license shall be the address of the licensee.

1 **5-10.1-11. Trainees.**

2 (a) Each applicant for a certificate of registration as a trainee shall make an application
3 which shall include such information required and in such form as the department may prescribe.

4 (b) A certificate of registration as a trainee shall be for a period of one year, renewable
5 for a second year, and may be renewed for additional terms within the discretion of the
6 department.

7 (c) Each certificate of registration issued as provided in this section shall be posted in a
8 conspicuous place in the appearance enhancement business in which the trainee is actually
9 engaged in the practice of nail specialty as a trainee.

10 (d) The holder of a certificate of registration as a trainee shall not be entitled to an
11 appearance enhancement business license.

12 **5-10.1-12. Fees.**

13 (a) The non-refundable fee for an application for a license to engage in the practice of
14 nail specialty, waxing, natural hair styling, esthetics or cosmetology, shall be forty dollars
15 (\$40.00) initially and for each renewal thereof the fee shall be forty dollars (\$40.00); the fee for a
16 temporary license and each renewal shall be ten dollars (\$10.00).

17 (b) The fee for an appearance enhancement business license shall be sixty dollars
18 (\$60.00) initially and sixty dollars (\$60.00) for each renewal thereof.

19 (c) Upon a determination that it is in the best public interest to do so, the department may
20 promulgate rules imposing fees not to exceed twenty dollars (\$20.00) for the registration and
21 renewal of the registration of a trainee.

22 (d) The department shall receive a non-refundable examination fee of fifteen dollars
23 (\$15.00) from each person who takes a written examination.

24 (e) The fee for issuing a duplicate license certificate, in substitution for one lost,
25 destroyed or mutilated shall be ten dollars (\$10.00).

26 (f) The fee for changing a name on an appearance enhancement business license shall be
27 thirty dollars (\$30.00).

28 (g) The fee for changing the address on a license shall be ten dollars (\$10.00).

29 (h) The fees set forth shall be those for licenses issued for the license period of four (4)
30 years.

31 **5-10.1-13. Administration.**

32 (a) Suspension and revocation of licenses or registrations; fines; reprimands. A license or
33 registration issued pursuant to this chapter may be suspended or revoked, or a fine not exceeding
34 five hundred dollars (\$500) payable to the department may be imposed for any one or more of the

1 following causes:

2 (1) Fraud or bribery in securing a license or registration or permission to take an
3 examination.

4 (2) The making of any false statement as to a material matter in any application or other
5 statement or certificate required by or pursuant to this chapter.

6 (3) Incompetence or untrustworthiness.

7 (4) Failure to display the license as provided in this chapter.

8 (5) Violation of any provision of this chapter, or of any rule or regulation adopted.

9 (6) Conviction of any of the following crimes subsequent to the issuance of a license or
10 registration pursuant to this chapter: fraud and false dealing (chapter 18 of title 11); grand larceny
11 (chapter 41 of title 11); bribery (chapter 7 of title 11); perjury (chapter 33 of title 11) and assault
12 (chapter 5 of title 11) robbery (chapter 39 of title 11); homicide (chapter 23 of title 11);
13 manslaughter (§ 11-23-3); kidnapping (chapter 26 of title 11); unlawful weapons possession;
14 criminal use of a weapon and criminal sale of a weapon (chapter 47 of title 11); compelling
15 prostitution (chapter 34 of title 11); sex trafficking; sex trafficking of a child; and any other sex
16 offenses. Provided, however, that for the purposes of this chapter, none of the following shall be
17 considered criminal convictions or reported as such:

18 (i) A conviction for which an executive pardon has been issued;

19 (ii) A conviction which has been vacated and replaced by a youthful offender finding, or
20 the applicable provisions of law of any other jurisdiction; or

21 (iii) A conviction, the records of which, have been expunged or sealed pursuant to the
22 applicable provisions of the laws of this state or of any other jurisdiction; and

23 (iv) A conviction for which other evidence of successful rehabilitation to remove the
24 disability has been issued. Provided, however, a fine shall not be imposed for the causes specified
25 in § 5-10.1-13(6). In lieu of or in conjunction with the suspension or revocation of a license or
26 registration, or the imposition of a fine pursuant to this section, the director may issue a
27 reprimand. When a license or registration issued pursuant to this chapter is revoked, such license
28 or registration shall not be reinstated or reissued until after the expiration of a period of one year
29 from the date of such revocation. No license or registration shall be issued after a second
30 revocation.

31 (b) Unlicensed activities. The director may issue an order directing the cessation of any
32 activity related to nail specialty, waxing, natural hair styling, esthetics or cosmetology for which a
33 license is required by this chapter upon a determination that a person, partnership, limited liability
34 company or business corporation, engaging in the business or occupation of, or holding himself

1 or herself, out as or acted, temporarily or otherwise, as a nail specialist, natural hair stylist,
2 esthetician or cosmetologist within this state without a valid license being in effect. The
3 department shall, before making such determination and order, afford such person, partnership,
4 limited liability company or business corporation an opportunity to be heard in person or by
5 counsel in reference thereto in an adjudicatory proceeding held pursuant to this chapter as
6 applicable.

7 Notwithstanding any provision to the contrary, if the department finds that a person,
8 partnership, limited liability company or business corporation, is holding himself or herself out as
9 or is acting as, temporarily or otherwise, an appearance enhancement business within this state
10 without a valid license, the department shall provide the person, partnership, limited liability
11 company or business corporation with a written notice of violation and complaint, and shall
12 afford an opportunity to be heard, either in person or by counsel, before an administrative law
13 judge no sooner than three (3) days from delivery of such notice of violation. If documentary
14 proof that the deficiency has been cured is not provided to the department at or before such
15 hearing, following a hearing determination that unlicensed activities have occurred, the
16 department may issue an immediate order directing the cessation of any activity for which an
17 appearance enhancement license is required. The director may issue an order directing the
18 cessation of any activity if the director finds that a person, including a partnership, a limited
19 liability company or business corporation, is holding himself or herself out as or is acting as,
20 temporarily or otherwise, an appearance enhancement business within the state without:

21 (i) A bond; or

22 (ii) Liability insurance or liability coverage which is covered through a bond. The
23 director shall, before making such determination and order, afford such person, partnership,
24 limited liability company or business corporation an opportunity to be heard in person or by
25 counsel in reference thereto in an adjudicatory proceeding held pursuant to this chapter.

26 (c) The attorney general, acting on behalf of the department, may commence an action or
27 proceeding in a court of competent jurisdiction to obtain a judgment against such person,
28 partnership, limited liability company or business corporation in an amount equal to that assessed
29 as a civil penalty. Said judgment shall thereafter be enforceable by any means authorized by the
30 rules of civil procedure.

31 (d) Where an appearance enhancement business operator continues to operate without a
32 license following the issuance of an order by the director directing cessation, the attorney general,
33 acting on behalf of the department, may commence an action or proceeding in a court of
34 competent jurisdiction against such operator to obtain an order enjoining further operation of such

1 business. An appearance enhancement business that has been ordered to cease operation shall not
2 re-open without first obtaining a license as required by this chapter and paying any assessed fines.

3 **5-10.1-14. Denial of license; complaints; notice of hearing.**

4 (a) Denial of license or registration. The department shall, before making a final
5 determination to deny an application for a license or registration, notify the applicant in writing of
6 the reasons for such proposed denial and shall afford the applicant an opportunity to be heard in
7 person or by counsel prior to denial of the application. Such notification shall be served
8 personally or by certified mail or in any manner authorized by the rules of civil procedure for
9 service of a summons. If a hearing is requested, such hearing shall be held at such time and place
10 as the department shall prescribe. If the applicant fails to make a written request for a hearing
11 within thirty (30) days after receipt of such notification, then the notification of denial shall
12 become the final determination of the department. The department, acting by such officer or
13 person in the department as the director may designate, shall have the power to subpoena and
14 bring before the officer or person so designated and administer an oath to and take testimony of
15 any person or cause his or her deposition to be taken. A subpoena issued under this section shall
16 be regulated by the rules of civil procedure. If, after such hearing, the application is denied,
17 written notice of such denial shall be served upon the applicant personally or by certified mail or
18 in any manner authorized by the rules of civil procedure for the service of a summons.

19 (b) Revocation, suspension, reprimands; fines; unlicensed activities. The department
20 shall, before revoking or suspending any license or registration or imposing any fine or reprimand
21 on the holder thereof, or before issuing any order directing the cessation of unlicensed activities,
22 and at least ten (10) days prior to the date set for the hearing, notify in writing the holder of such
23 license or registration, or the person alleged to have engaged in unlicensed or unregistered
24 activities, of any charges made and shall afford such person an opportunity to be heard in person
25 or by counsel in reference thereto. Such written notice may be served by delivery of same
26 personally to the licensee or registrant or person charged, or by mailing same by certified mail to
27 the last known business or other address provided by such person to the department, or by any
28 method authorized by the rules of civil procedure for the service of a summons. The hearing on
29 such charges shall be at such time and place as the department shall prescribe.

30 (c) The department, acting by such officer or person in the department as the director may
31 designate, shall have the power to subpoena and bring before the officer or person so designated
32 any person in this state, and administer an oath to and take testimony of any person or cause his
33 or her deposition to be taken. A subpoena issued under this section shall be regulated by the rules
34 of civil procedure.

1 **5-10.1-15. Penalties.**

2 (a) The practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology
3 without a license or while under suspension or revocation, or in violation of an order directing the
4 cessation of unlicensed activity is a violation and is subject to a civil penalty of up to five hundred
5 dollars (\$500) for the first violation; one thousand dollars (\$1,000) for a second such violation;
6 and two thousand five hundred dollars (\$2,500) for a third violation and any subsequent violation.

7 (b) The following violations shall be deemed separate offenses and be deemed a
8 misdemeanor, and upon conviction, shall be punishable by imprisonment for not more than six
9 (6) months, or by a fine of up to one thousand dollars (\$1,000) or by both fine and imprisonment:

10 (1) The operation of an appearance enhancement business without a license or when such
11 license has been suspended or revoked; or

12 (2) The operation of an appearance enhancement business in violation of an order
13 directing the cessation of unlicensed activity; or

14 (3) The operation of an appearance enhancement business without a:

15 (i) Bond; or

16 (ii) Liability insurance or liability coverage which is covered through a bond shall be
17 punishable by a civil penalty of up to two thousand five hundred dollars (\$2,500).

18 (c) The enforcement of this provision shall require the department to certify in writing
19 that any bonds or liability insurance that is required by the department is readily available to
20 appearance enhancement businesses from the market place.

21 (d) Judicial review. The action of the department in suspending, revoking or refusing to
22 issue or renew a license, or issuing an order directing the cessation of unlicensed activity or
23 imposing a fine or reprimand may be appealed by a proceeding brought in the superior court. The
24 official acts of the director and the department shall be prima facie evidence of the facts therein
25 and shall be entitled to be received as evidence on all actions at law and other legal proceedings
26 in any court or before any board, body or officer.

27 **5-10.1-16. Disposition of monies.**

28 (a) With the exception of fees collected for examinations all monies derived from the
29 operation of this chapter shall on or before the tenth day of each month be paid into the general
30 fund of the state treasury to the credit of the state purposes account therein.

31 **5-10.1-17. Application of chapter.**

32 (a) This chapter shall not apply to or affect the practice of the profession by natural hair
33 stylists or by duly licensed physicians, osteopaths, dentists, optometrists, nurses or
34 physiotherapists.

1 (b) This chapter shall not apply to, affect or prevent home administration, without
2 compensation or other consideration, of any practices defined in this chapter, nor shall the
3 provisions of this chapter be construed to prevent the application of facial creams and lotions by
4 persons working for the manufacturer of such creams and lotions in its establishment and under
5 the direction of a licensed esthetician. Also, this chapter shall not apply to the retail sale, or the
6 trial demonstration by application to the skin for purposes of retail sale, of tonics, antiseptics,
7 powders, oils, clays, lotions, creams, cosmetics, cosmetic preparations or compounds.

8 **5-10.1-18. Severability.**

9 If any part or provision of this chapter or the application thereof to any person or
10 circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be
11 confined in its operation to the part, provision or application directly involved in the controversy
12 in which such judgment shall have been rendered and shall not affect or impair the validity of the
13 remainder of this chapter or application thereof to other persons or circumstances and the
14 legislature hereby declares that it would have enacted this chapter or the remainder thereof had
15 the invalidity of such provision or application been apparent.

16 SECTION 3. This act shall take effect upon passage.

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LC001859
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS-BARBERS, HAIRDRESSERS,
COSMETICIANS, MANICURISTS AND ESTHETICIANS

- 1 This act would enact a new all-encompassing registration and regulation procedure
- 2 relating to barbers, hairdressers, cosmeticians, manicurists and estheticians.
- 3 This act would take effect upon passage.

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