

ORIGINAL SENATE
FILE NO. 0053

ENROLLED ACT NO. 39, SENATE

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

AN ACT relating to the Wyoming Cosmetology Act; providing for the licensure of cosmetologists, manicurists, nail technicians, estheticians and hair stylists; providing for duties of the board of cosmetology; providing for disciplinary actions; providing for fees; making conforming and clarifying amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 27-3-108(a)(ix)(intro), 33-7-108(b), 33-7-209(a)(iii), 33-12-120(a), 33-12-121(a), 33-12-123(a)(i), (ii) and (v), 33-12-124, 33-12-127(a), (b), (c)(i), (d) and by creating a new subsection (e), 33-12-128, 33-12-129, 33-12-130(a)(i) and (ii), 33-12-131(b), 33-12-132, 33-12-134(c) and by creating a new subsection (d), 33-12-135, 33-12-138(a)(i) and (ii), 33-12-139(a) by creating new paragraphs (viii) through (xiii) are amended to read:

27-3-108. Services excluded from scope of employment.

(a) Employment under this act does not include service performed:

(ix) In a barber shop licensed under W.S. 33-7-108 or ~~a beauty shop~~ salon licensed under W.S. 33-12-127 if:

33-7-108. Shop license; fee; renewal; application; inspection fees; nontransferable.

(b) Registered barbers, ~~and~~ cosmetologists manicurists or nail technicians, estheticians and hair stylists licensed under W.S. 33-12-119 through 33-12-140

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may engage in the practice for which they are licensed in the same shop if the shop is licensed under subsection (a) of this section and under W.S. 33-12-119 through 33-12-140.

33-7-209. Qualifications for registration as barber; examination.

(a) No person shall receive a certificate of registration to practice barbering, other than a renewal or restoration, unless he:

(iii) Is a cosmetologist or hair stylist licensed under W.S. 33-12-119 through 33-12-140, has completed seven hundred fifty (750) hours of training at an approved barber school or college and passed an examination conducted by the board to determine his fitness for practice.

33-12-120. Definitions.

(a) As used in this act:

(i) "Applicant" means the person, persons or entity applying for a license, examination or appointment;

(ii) "Application" means a form prescribed by the board used for making a request for licensure, examination or appointment;

(iii) "Board" means the state board of cosmetology;

(iv) "Cosmetologist" means a person who engages in ~~any of the practices~~ practice of cosmetology as defined by this act and rules of the board and who is licensed as a cosmetologist under this act;

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(v) "Practice of cosmetology" means any single practice or service or a combination of practices or services performed for others for the improvement and beautification of the hair, skin and nails of the human body for cosmetic purposes;

(vi) "Esthetician" means a person who engages in the practice of esthetics as defined by this act and rules of the board and who is licensed as an esthetician under this act;

(vii) "Practice of esthetics" means any single practice or service or a combination of practices or services performed for others for the improvement and beautification of the skin of the human body for cosmetic purposes;

(viii) "Hair stylist" means a person who engages in the practice of hair styling as defined by this act and rules of the board and who is licensed as a hair stylist under this act;

(ix) "Practice of hair styling" means any single practice or service or a combination of practices or services performed for others for the improvement and beautification of the hair for cosmetic purposes;

~~(vi)~~ (x) "Instructor" means a person licensed to teach cosmetology or any practices thereof in a school of cosmetology as defined by this act and rules of the board;

~~(vii)~~ (xi) "License" means a current document recognizing the cosmetologist, manicurist or nail technician, esthetician, hair stylist, instructor, salon or

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school has met the qualifications required for doing business in this state;

(xii) "Manicurist or nail technician" means a person who engages in the practice of manicuring or nail technology as defined by this act and rules of the board and who is licensed as a manicurist or nail technician under this act;

(xiii) "Practice of manicuring or nail technology" means any single practice or service or a combination of practices or services performed for others for the improvement and beautification of the nails and for cosmetic purposes;

~~(viii)~~ (xiv) "Model" means a person who volunteers to allow a licensed cosmetologist, manicurist or nail technician, esthetician, hair stylist or student enrolled in a cosmetology school to perform cosmetology services without cost;

~~(ix)~~ (xv) "Patron" means a paying customer in a cosmetology salon or school;

~~(x)~~ (xvi) "Salon" means any place licensed under this act in which cosmetology is practiced;

~~(xi)~~ (xvii) "School" means any place licensed under this act where cosmetology is taught to students;

~~(xii)~~ (xviii) "Student" means a person enrolled in a school licensed under this act;

(xix) "Unprofessional" means acting in an extreme manner not conforming to current standards of the cosmetology industry;

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~~(xiii)~~(xx) "This act" means W.S. 33-12-119
through 33-12-140.

**33-12-121. Board; membership; appointment;
qualifications; term of office; vacancies; removal.**

(a) The board shall consist of five (5) members appointed by the governor. Each member shall be a cosmetologist licensed in Wyoming, and at least one (1) shall be an instructor licensed in Wyoming. Each member of the board shall be a resident of Wyoming with at least five (5) years experience as a cosmetologist in Wyoming immediately preceding the appointment. Appointments shall represent various geographical areas of Wyoming. The term of each appointee shall be three (3) years, unless sooner removed from the board, or until a successor is appointed. The terms shall be staggered so that the terms of not more than two (2) members expire each year. The members of the board holding office on the effective date of this act shall serve as members for the remainder of their respective terms.

33-12-123. Duties of board members.

(a) Within the limitations and authority granted by this act, the board shall:

(i) Develop rules setting uniform and reasonable standards of competency for the practice and teaching of cosmetology, manicuring or nail technology, esthetics or hair styling, for the operation of salons and schools, and procedures for its own conduct;

(ii) Administer examinations to determine competency for licensure of cosmetologists, manicurists or

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nail technicians, estheticians, hair stylists and
instructors;

(v) Annually inspect, or appoint persons to inspect, all salons and schools for proper licensure of the salon, school and all cosmetologists, manicurists or nail technicians, estheticians, hair stylists whether practicing as a proprietor, employee or independent contractor, or instructors practicing or teaching and for the purpose of determining compliance with the provisions of this act and board rules;

33-12-124. Meetings.

A majority of the board constitutes a quorum for meetings and the transaction of business. The act of the majority of members of the board shall be the act of the board. The board shall meet as often as needed, but not less than four (4) times a year. ~~At least three (3) weeks prior to each meeting, written notice of the meeting shall be published in three (3) newspapers in the state~~ The meetings shall be held in accordance with W.S. 16-4-401 through 16-4-407. The board shall keep permanent records of its meetings.

33-12-127. Licenses required; failure to comply; fines.

(a) From and after the effective date of this act, no person shall engage in the practice or instruction of cosmetology, manicuring or nail technology, esthetics or hair styling and no place shall be maintained and operated for the practice or teaching of cosmetology, manicuring or nail technology, esthetics or hair styling except under a license issued in compliance with this act and the rules adopted pursuant to this act.

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(b) No school or salon shall employ, hire or in any manner allow any individual to practice or teach cosmetology, manicuring or nail technology, esthetics or hair styling unless that individual has a current license to practice or teach the applicable specific practice of cosmetology, manicuring or nail technology, esthetics or hair styling.

(c) The licenses required in subsections (a) and (b) of this section shall:

(i) Be issued in the name of the licensed cosmetologist, the manicurist or nail technician, esthetician, hair stylist, instructor, ~~the~~ owner of the salon or ~~the~~ owner of the school;

(d) Any person who practices or teaches cosmetology, manicuring or nail technology, esthetics or hair styling for compensation, or who carries on any business, practice or operation governed by this act, without ~~a~~ the applicable license when a license is required, is guilty of a misdemeanor punishable, upon conviction, by a fine of not more than seven hundred fifty dollars (\$750.00).

(e) Upon request of a licensee, the board may issue a certificate to the licensee to practice activities authorized under the license as an independent contractor within a salon. The board may charge an additional fee for the issuance of the certificate as established pursuant to W.S. 33-12-139.

33-12-128. Form; expiration; renewal of license.

The board shall prescribe the form and expiration date of licenses. Licenses may be renewed by submitting the required application for renewal and fee to the board

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before the license expiration date. If a cosmetologist, manicurist or nail technician, esthetician, hair stylist or instructor license is allowed to expire, the license may be renewed within a period of ninety (90) days after the expiration date, but after the expiration of ninety (90) days from the date the license expired the license shall lapse.

33-12-129. Expired and lapsed licenses; relicensure.

If a salon or school license is allowed to expire a reinstatement fee for late renewal shall be imposed. A cosmetologist, manicurist or nail technician, esthetician, hair stylist or instructor license which has lapsed may be reinstated subject to payment of a reinstatement fee in addition to license fees for the lapsed period. Any person whose license has lapsed for five (5) years or more, and who does not qualify for licensure by endorsement, shall be required to complete a refresher course of one hundred (100) hours at a licensed school before applying for examination and shall then be required to take the board examination.

33-12-130. Licensure by examination.

(a) An applicant for admission to board examination shall meet the following requirements:

(i) ~~Except as provided by W.S. 33-12-134(e),~~ Be a graduate of a cosmetology, manicuring or nail technology, esthetics or hair styling school and have met training requirements comparable to those set forth in board rules;

(ii) Submit proper credentials as required by the board no less than ~~ten (10)~~ fifteen (15) days before the examination is to be given;

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33-12-131. Time, place and scope of examinations.

(b) The examinations shall not be confined to any specific method or system, may consist of written, oral and performance examinations and shall be of such scope and character as to disclose that any person passing the examination is qualified to receive a cosmetologist, manicurist or nail technician, esthetician, hair stylist or instructor license.

33-12-132. Licensure by endorsement.

An applicant for a license to practice or instruct cosmetology, manicuring or nail technology, esthetics or hair styling in Wyoming who is a qualified and currently licensed cosmetologist, manicurist or nail technician, esthetician, hair stylist or ~~cosmetology~~-instructor in another state, upon submitting an application to the board, a certification from the board or licensing agency of the state in which the applicant is licensed, proof of meeting the requirements of this section and payment of the required fee, may receive a cosmetologist, manicurist or nail technician, esthetician, hair stylist or ~~cosmetology~~ instructor license by endorsement without examination in this state. An applicant from another state which does not require a board examination for licensure, or an applicant who did not attend a ~~licensed~~-cosmetology, manicuring or nail technology, esthetics or hair styling school meeting requirements of the rules of the board and the licensing entity of the state in which the school is located, shall not obtain a Wyoming license by endorsement. An applicant from another state who has not practiced cosmetology, manicuring or nail technology, esthetics or hair styling full time for at least one (1) year prior to application shall obtain a Wyoming license by endorsement only if he

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was licensed under requirements which the board determines to be at least equal to those established pursuant to this act.

33-12-134. Promulgation of rules.

(c) Notwithstanding any other provision of this act, the board may adopt rules which prescribe reduced qualifications and examination requirements for persons seeking to engage solely in services for the improvement and beautification of the hair, skin or nails. The license issued shall state the limited nature of services which may be performed by the licensee.

(d) In adopting rules defining the professions licensed under this act the board may clarify definitions provided in statute and address new practices but shall not otherwise expand those activities which constitute the practice of a profession licensed under this act.

33-12-135. Powers to revoke, refuse, suspend, refuse to renew licenses; grounds; procedures.

(a) The board may refuse to issue a license under this act or censure, revoke, suspend or refuse to renew a license issued pursuant to this act after not less than twenty (20) days notice and a hearing, held pursuant to the provisions of W.S. 16-3-101 through 16-3-115, ~~for the violation of this act or any rule of the board by any person or entity holding a license. The board may require the attendance of witnesses and the production of books, records or papers it determines necessary for any investigation of any violation of this act or rule of the board. Any member of the board may administer oaths to witnesses appearing to testify before the board or before any board member.~~ for any of the following acts:

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(i) Any violation of this act or any rule of the board;

(ii) Any infection control violation as defined by this act or rules of the board;

(iii) Unprofessional or dishonest conduct as defined by this act or rules of the board;

(iv) A judicial disposition of guilt or a plea of nolo contendere relative to a criminal offense which adversely relates to the practice or instruction of cosmetology, nail technology, esthetics or hair styling;

(v) Use of any prohibited product as defined by this act or rules of the board;

(vi) Use of intoxicating liquor or drugs to such an extent as to render the individual unfit to practice or teach cosmetology, manicuring or nail technology, esthetics or hair styling;

(vii) Fraud, cheating or unfair practices in passing an examination;

(viii) Advertising by means of statements known to be false or deceptive; or

(ix) Failure of any person, salon or school to display required licenses and inspection certificates.

(c) The board may require the attendance of witnesses and the production of books, records or papers it determines necessary for any investigation of any violation of this act or rule of the board. Any member of the board

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may administer oaths to witnesses appearing to testify before the board or before any board member.

~~(e)~~(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

33-12-138. Publications.

(a) The board shall:

(i) Provide a copy of appropriate statutes and rules to every licensed cosmetologist, manicurist or nail technician, esthetician, hair stylist, salon and school. Additional copies shall be made available upon payment of a fee for the publication;

(ii) Prepare and maintain a current list of the names and addresses of all cosmetologists, manicurist or nail technicians, estheticians, hair stylists, salons and schools licensed in Wyoming, the names and addresses of the members of the board and their terms of office. The list shall be available for inspection and copying and for reproduction in whole or in part upon payment of the cost of reproduction.

33-12-139. Fees; disposition of fees.

(a) Fees for the following shall be determined by the board pursuant to W.S. 33-1-201:

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(viii) Online testing;

(ix) Manicurist or nail technician license;

(x) Esthetician license;

(xi) Temporary location license;

(xii) Independent contractor certificate; and

(xiii) Hair stylist license.

Section 2. W.S. 33-12-135(b) is repealed.

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Section 3. This act is effective July 1, 2005.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk